THE INDIA ACTS

AND

THE MADRAS ACTS,

1930.

THE MADRAS LAW JOURNAL OFFICE,
MYLAPORE, MADRAS.

1931.

PRINTED AT
THE MADRAS LAW JOURNAL PRESS, MYLAPORE, MADRAS.

THE DANGEROUS DRUGS ACT, 1930.

ACT No. II OF 1930.

PREFATORY NOTE:—The following Report of the Select Committee on the Bill to centralise and vest in the Governor-General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations was presented to the Legislative Assembly on the 6th February, 1930:—

We, the undersigned members of the Select Committee to which the Bill to centralise and vest in the Governor-General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Papers I-IV.

2. *Clause* 2.—In clauses (*a*), (*c*) and (*e*), we have made small drafting amendments.

We have omitted (*e*) (*iii*) as Government opium is raw opium, and comes within the scope of (*e*) (*ii*). To retain it might cause confusion and misunderstanding.

In clause (*g*) we have deleted the words "of the acceptance", so that the Governor-General in Council may take action at once as soon as he recommends that the drug should be declared internationally to be a dangerous drug, without awaiting for the formal acceptance of the recommendation by the Convention. It is understood that the notification will be cancelled if, on further inquiry by the Convention, it is found that the drug should not be declared to be a dangerous drug.

We have amended clauses (*i*), (*j*), (*k*) and (*l*) so as to make clearer provision for these important classes of cases which may be exemplified by export and import between Burma and Bengal, or between Bombay and Madras. In the first example the import or export occurs across the open sea, and it might be held that such import and export was import into or export from British India. In the second case, the drugs may be carried across a stretch of Hyderabad territory. It is not the intention of the Bill to place the control of such import and export in the hands of the Governor-General; it is intended that such inter-provincial traffic should be left in the hands of the Local Governments concerned; and our re-draft is intended to place this beyond doubt.

We have made a small drafting amendment in sub-clause (*n*).

Clause 4.—We have amended sub-clause (*b*) so as not to penalise the preparation of prepared opium by a lawful owner's relative or servant, on his behalf.

In sub-clause (*c*) we have deleted the word "transport", as the transport of prepared opium which is unlawfully possessed will be punishable as unlawful possession, whereas the transport of prepared opium lawfully possessed cannot, on practical grounds, be made punishable.

We have added a proviso which will allow Government to grow the coca plant, and to experiment in the manufacture of cocaine therefrom, as we think it desirable that India should not be debarred from having indigenous supplies of this valuable drug for proper medicinal uses. The same proviso is added, consequently, to clause 9.

Clauses 5, 6 *and* 7.—We have made small drafting amendments.

Clause 8.—In sub-clauses (1) and (2) we have made drafting amendments; and in sub-clause (3) we have inserted words which will empower

Local Governments, subject to the control of the Governor-General in Council, to make express rules bringing Government-owned drugs within the scope of the section. This amendment is intended to apply to drugs kept in Government dispensaries, and the like, which should properly come under the control of Local Governments.

Clause 9.—We have inserted this clause in order that Local Governments may have some control over traffic in dangerous drugs, where the persons promoting the traffic have their headquarters in British India but the traffic itself lies entirely outside British India. Such a case would arise where a merchant in Bombay arranges with opium suppliers in Persia for the despatch of opium to China.

Clause 10 (*old clause* 9).—We have made two amendments consequential on the amendments made in clause 4. We also propose that for offences under clauses 10 and 11, the fine should be unlimited, as in clauses 12, 13, 14 and 15. The offences under clauses 10 and 11 may be very serious, and we think the Court should be given power to award heavy fines in very bad cases.

Clauses 15, 16 *and* 18 (*old clauses* 14, 15 *and* 17).—As clause 10 relates to the serious offences of the manufacture, import, export and sale of prepared opium, we consider it should be included within the category given in these clauses. The references in these clauses have been re-numbered.

Clause 18 (*old clause* 17).—We have added two new sub-clauses, in order to make it quite clear that a bond shall be cancelled when a conviction is set aside, and that an appellate court, or the High Court when exercising its revisional powers, shall be empowered to require a bond to be executed.

Clause 19 is introduced to supply the penalty for the new clause 9 inserted by us. We propose to limit the penalty to a fine of one thousand rupees without imprisonment.

Clause 22 (*old clause* 20).—We have amended this clause so as to give power to issue warrants to Presidency Magistrates in the presidency-towns; and also in order to give this power to selected Magistrates of the second class. The clause now confers these powers on the Courts which have similar powers under the Opium Act, 1878.

Clause 23 (*old clause* 21).—As the Bill is aimed at traffic in dangerous drugs, it is desirable that officers carrying out the search of a house containing dangerous drugs should be able to seize documents or other articles which may furnish valuable evidence that the drugs seized have been the subject-matter of an offence. We have amended sub-clause (*c*) accordingly.

We have added a proviso which will empower police and other officers to make searches by night, under circumstances where there is reason to believe that delay will result in the escape of the offenders or the removal of illicit drugs. We have added a new sub-clause to ensure that these powers shall be properly exercised.

Clauses 24 *and* 28 (*old clauses* 22 *and* 26).—The amendment in these clauses follows from the amendment to sub-clause (*c*) of clause 23.

Clauses 29 *and* 30 (*old clause* 27 *and new clause* 30).—We have introduced a new clause 30 giving Government power to invest Excise Officers with the powers of an officer in charge of a police station for the investigation of offences under this Act; and we have amended old clause 27 so that offenders arrested and articles seized may be forwarded to such officers. These amendments should facilitate the prosecution of offences and will tend to shorten the period during which persons are in custody pending their production before a Court.

Clause 31 (*old clause* 28).—We have re-drafted this clause so as to give jurisdiction to second-class Magistrates specially empowered and have thus brought it into line with the provisions of the Opium Act, 1878.

Clause 32 (*old clause* 29).—We have made a restricting amendment in sub-clause (*b*), as it seemed too wide.

Clause 34 (*old clause* 31).—Under this clause as it stood, persons who were not convicted had no right of appeal against an order confiscating their property. We have added a sub-clause giving them this right.

Clause 35 (*old clause* 32).—In sub-clause (*b*) we have made a small amendment in order to secure that Government may give rewards out of fines and confiscations to persons who are neither officers nor informers, such as private persons who take an active part in an important capture.

Clause 36 (*old clause* 33).—In sub-clause (2) we have provided for the case of the minor administration which has no local official Gazette.

Clause 41 (*old clause* 38).—We have made a drafting amendment.

Schedule I.—We have amended this in consequence of the amendments to section 18.

Schedule II.—The amendments to this schedule are extensive, but with the exceptions noted below they are all purely consequential, flowing necessarily from the amendments we have made in definitions (*c*), (*e*), (*j*) and (*l*) of clause 2 of the Bill. The exceptions are as follows:—

(1) The definitions of "import" and "export" throughout have been amended so as to preserve the existing control of the Local Governments over intoxicating drugs and narcotic substances which they may declare to be intoxicating drugs. These substances, by sub-clause (*iv*) of the various definitions of "intoxicating drug" now inserted in the local excise Acts, are not hemp, opium, coca leaf or manufactured drugs, and do not fall within the scope of the Bill. Their control in all respects, therefore, should remain, as heretofore, in the hands of the Local Governments.

(2) The Burma Opium Law Amendment Act, 1909 (Burma Act VII of 1909), has been introduced into the schedule and amended in several minor particulars. This Act has been overlooked when the Bill was drafted. The amendments are all purely formal and consequential and are designed to leave the substance of that Act untouched.

(3) Further amendments have been made in the Eastern Bengal and Assam Excise Act, 1910. That Act had been amended by the Assam Excise (Amendment) Act, 1927, while the Bill was being drafted. The amendments had the effect of bringing cocaine under the control of the Local Government, and the fresh amendments now introduced into the schedule place cocaine again under the control of the Governor-General in Council, in pursuance of the general scheme of the Bill."—(*Report of the Select Committee.*)

CONTENTS.

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.
3. Calculation of percentages in liquid preparations.

CHAPTER II.

PROHIBITION AND CONTROL.

4. Prohibition of certain operations.
5. Control of Governor-General in Council over production and supply of opium.
6. Control of Governor-General in Council over manufacture of manufactured drugs.
7. Control of Governor-General in Council over operations at land and sea frontiers.
8. Control of Local Government over internal traffic in manufactured drugs and coca leaf.
9. Control of Local Government over external dealings in dangerous drugs.

CHAPTER III.

OFFENCES AND PENALTIES.

10. Punishment for contravention of section 4.
11. Punishment for contravention of section 5.
12. Punishment for contravention of section 6.
13. Punishment for contravention of section 7.
14. Punishment for contravention of section 8.
15. Punishment for allowing premises to be used for commission of an offence.
16. Enhanced punishment for certain offences after previous conviction.
17. Enhanced punishment for offence under section 15 after previous conviction.
18. Security for abstaining from commission of certain offences.
19. Penalty for contravention of section 9.
20. Attempts.
21. Abetments.

CHAPTER IV.

PROCEDURE.

22. Power to issue warrants.
23. Power of entry, search, seizure and arrest without warrant.
24. Power of seizure and arrest in public places.
25. Mode of making searches and arrests.
26. Obligation on officers to assist each other.
27. Report of arrests and seizures.
28. Punishment for vexatious entry, search, seizure or arrest.
29. Disposal of persons arrested and of articles seized.
30. Power to invest Excise officers with powers of an officer in charge of a police station.
31. Jurisdiction to try offences.
32. Presumption from possession of illicit articles.

33. Liability of illicit articles to confiscation.
34. Procedure in making confiscations.
35. Power to make rules regulating disposal of confiscated articles and rewards.

CHAPTER V.

MISCELLANEOUS.

36. Provisions regarding rules.
37. Recovery of sums due to Government.
38. Application of the Sea Customs Act, 1878.
39. Saving of local and special laws.
40. Amendment of certain enactments.
41. Saving of things already done.

SCHEDULE I.—Form of bond to abstain from the commission of offences under the Dangerous Drugs Act, 1930.

SCHEDULE II.—Amendments of local Acts.

[*1st March*, 1930.]

An Act to centralise and vest in the Governor-General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations.

WHEREAS India participated in the Second International Opium Conference, which was convoked in accordance with the resolution of the Assembly of the League of Nations dated the 27th day of September 1923, met at Geneva on the 17th day of November 1924, and on the 19th day of February 1925, adopted the Convention relating to Dangerous Drugs (hereinafter referred to as the Geneva Convention);

AND WHEREAS India was a State signatory to the said Geneva Convention;

AND WHEREAS the Contracting Parties to the said Geneva Convention resolved to take further measures to suppress the contraband traffic in and abuse of Dangerous Drugs, especially those derived from opium, Indian hemp and coca leaf, such measures being more particularly set forth in the Articles of the said Geneva Convention;

AND WHEREAS for the effective carrying out of the said measures it is expedient that the control of certain operations relating to Dangerous Drugs should be centralised and vested in the Governor-General in Council;

AND WHEREAS it is also expedient that the penalties for certain offences relating to Dangerous Drugs should be increased, and that all penalties relating to certain operations should be rendered uniform throughout British India;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called THE DANGEROUS DRUGS ACT, 1930.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "coca leaf" means—

(*i*) the leaf and young twigs of any coca plant, that is, of the *Erythroxylon coca* (*Lamk.*) and the *Erythroxylon novo-granatense* (*Hiern.*) and their varieties, and of any other species of this genus which the Governor-General in Council may, by notification in the *Gazette of India*, declare to be coca plants for the purposes of this Act; and

(*ii*) any mixture thereof, with or without neutral materials;

but does not include any preparation containing not more than 0·1 per cent. of cocaine;

(*b*) "coca derivative" means—

(*i*) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;

(*ii*) ecgonine, that is, laevo-ecgonine having the chemical formula $C_9 H_{15}NO_3 H_2 O$, and all the derivatives of lævo-ecgonine from which it can be recovered;

(*iii*) cocaine, that is, methyl-benzoyl-lævo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$, and its salts; and

(*iv*) all preparations, officinal and non-officinal, containing more than 0·1 per cent. of cocaine;

(*c*) "hemp" means—

(*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi*, or *ganja*;

(*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*iii*) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom;

(*d*) "medicinal hemp" means any extract or tincture of hemp;

(*e*) "opium" means—

(*i*) the capsules of the poppy (*Papaver somniferum L.*);

(*ii*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*iii*) any mixture, with or without neutral materials, of any of the above forms of opium;

but does not include any preparation containing not more than 0·2 per cent. of morphine;

(*f*) "opium derivative" means—

(*i*) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether in powder form or granulated or otherwise or mixed with neutral materials;

(*ii*) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;

(*iii*) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$, and its salts;

(*iv*) diacetylmorphine, that is, the alkaloid, also known as diamorphine or heroin, having the chemical formula $C_{21}H_{23}NO_5$, and its salts; and

(*v*) all preparations, officinal and non-officinal, containing more than 0·2 per cent. of morphine, or containing any diacetylmorphine;

(*g*) "manufactured drug" includes—

(*i*) all coca derivatives, medicinal hemp and opium derivatives; and

(*ii*) any other narcotic substance which the Governor-General in Council may, by notification in the *Gazette of India* made in pursuance of a recommendation under Article 10 of the Geneva Convention, declare to be a manufactured drug;

but does not include any preparation which the Governor-General in Council may, by notification in the *Gazette of India* made in pursuance of a finding under Article 8 of the Geneva Convention, declare not to be a manufactured drug;

(*h*) "dangerous drug" includes coca leaf, hemp and opium, and all manufactured drugs;

(*i*) "to import into British India" means, subject to the provisions of clause (*j*), to bring into British India by land, sea or air;

(*j*) "to import inter-provincially" means to bring into one province from another, and includes—

(*i*) the bringing of a dangerous drug into a province from any territory of a Prince or Chief in India which is adjacent to or enclosed by the territories of such province, which the Governor-General in Council may, by notification in the *Gazette of India,* declare to be inter-provincial import; and

(*ii*) bringing into one province from another, in the course of a continuous journey, by sea or through the territory of a Prince or Chief in India;

(*k*) "to export from British India" means, subject to the provisions of clause (*l*), to take out of British India by land, sea or air;

(*l*) "to export inter-provincially" means to take out of one province into another, and includes—

(*i*) the taking of a dangerous drug out of a province into any territory of a Prince or Chief in India which is adjacent to or enclosed by the territories of such province, which the Governor-General in Council may, by notification in the *Gazette of India,* declare to be inter-provincial export; and

(*ii*) taking out of one province into another, in the course of a continuous journey, by sea or through the territories of a Prince or Chief in India;

(*m*) "to transport" means to take from one place to another in the same province; and

(*n*) "territory of a Prince or Chief in India" includes any territory in which the Governor-General in Council exercises powers or jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902.

Calculation of percentages in liquid preparations.

3. The Governor-General in Council may make rules prescribing the method by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (*a*), (*b*), (*e*) and (*f*) of section 2:

Provided that, unless and until such rules are made such percentages shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

CHAPTER II.

PROHIBITION AND CONTROL.

4. No one shall— *Prohibition of certain operations.*

(a) cultivate any coca plant, or gather any portion of a coca plant,

(b) manufacture or possess prepared opium, unless it is prepared from opium lawfully possessed for the consumption of the person so possessing it, or

(c) import into British India, export from British India, tranship or sell prepared opium:

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of Government.

5. (1) No one shall— *Control of Governor-General in Council over production and supply of opium.*

(a) cultivate the poppy (*Papaver somniferum L.*), or

(b) manufacture opium,

save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The Governor-General in Council may make rules permitting and regulating the cultivation of the poppy (*Papaver somniferum L.*) and the manufacture of opium, and such rules may prescribe the form and conditions of licences for such cultivation and manufacture, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the Governor-General in Council over such cultivation and manufacture.

(3) The Governor-General in Council may also make rules permitting and regulating the sale of opium from Government factories for export or to Local Governments or to manufacturing chemists.

6. (1) No one shall manufacture any manufactured drug, other than prepared opium, save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules. *Control of Governor-General in Council over manufacture of manufactured drugs.*

(2) The Governor-General in Council may make rules permitting and regulating the manufactured drugs, other than prepared opium, and such rules may prescribe the form and conditions of licences for such manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matter requisite to render effective the control of the Governor-General in Council over such manufacture.

(3) Nothing in this section shall apply to the manufacture

of medicinal opium or of preparations containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Control of Governor-General in Council over operations at land and sea frontiers.

7. (1) No one shall—

(*a*) import into British India,

(*b*) export from British India, or

(*c*) tranship

any dangerous drug, other than prepared opium, save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The Governor-General in Council may make rules permitting and regulating the import into and export from British India and the transhipment of dangerous drugs, other than prepared opium, and such rules may prescribe the ports or places at which any kind of dangerous drug may be imported, exported or transhipped, the form and conditions of licences for such import, export or transhipment, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the Governor-General in Council over such import, export and transhipment.

Control of Local Government over internal traffic in manufactured drugs and coca leaf.

8. (1) No one shall—

(*a*) import or export inter-provincially, transport, possess or sell any manufactured drug, other than prepared opium, or coca leaf, or

(*b*) manufacture medicinal opium or any preparation containing morphine, diacetylmorphine or cocaine,

save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The Local Government may, subject to the control of the Governor-General in Council, make rules permitting and regulating—

(*a*) the inter-provincial import and export into and from the territories under its administration, the transport, possession and sale of manufactured drugs, other than prepared opium, and of coca leaf; and

(*b*) the manufacture of medicinal opium or of any preparation containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Such rules may prescribe the form and conditions of licences for such import, export, transport, possession, sale and manufacture, the authorities by which such licences may be granted and

the fees that may be charged therefor, and any other matters requisite to render effective the control of the Local Government over such import, export, transport, possession, sale and manufacture.

(3) Save in so far as may be expressly provided in rules made under sub-section (2), nothing in this section shall apply to manufactured drugs which are the property and in the possession of Government:

Provided that such drugs shall not be sold or otherwise delivered to any person who, under the rules made by the Local Government under this section, is not entitled to their possession.

Control of Local Government over external dealings in dangerous drugs.

9. No one shall engage in or control any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, save in accordance with the conditions of a licence granted by and at the discretion of the Local Government.

CHAPTER III.

OFFENCES AND PENALTIES.

Punishment for contravention of section 4.

10. Whoever—

(a) cultivates any coca plant or gathers any portion of a coca plant,

(b) manufactures or possesses prepared opium otherwise than as permitted under section 4, or

(c) imports into British India, exports from British India, tranships or sells prepared opium,

shall be punished with imprisonment which may extend to two years, or with fine, or with both:

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of Government.

Punishment for contravention of section 5.

11. Whoever, in contravention of section 5, or any rule made under that section, or of any condition of a licence granted thereunder,

(a) cultivates the poppy, or

(b) manufactures opium,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 6.

12. Whoever, in contravention of section 6, or any rule made under that section, or any condition of a licence granted thereunder, manufactures any manufactured drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 7.

13. Whoever, in contravention of section 7, or any rule made under that section, or any condition of a licence granted thereunder,

(a) imports into British India,

(b) exports from British India, or

(c) tranships

any dangerous drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 8.

14. Whoever, in contravention of section 8, or any rule made under that section, or any condition of a licence issued thereunder,

(a) imports or exports inter-provincially, transports, possesses or sells any manufactured drug or coca leaf, or

(b) manufactures medicinal opium or any preparations containing morphine, diacetylmorphine, or cocaine, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for allowing premises to be used for the commission of an offence.

15. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place, knowingly permits it to be used for the commission by any other person of an offence punishable under section 10, section 12, section 13, or section 14, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Enhanced punishment for certain offences after previous conviction.

16. Whoever, having been convicted of an offence punishable under section 10, section 12, section 13, or section 14, is guilty of any offence punishable under any of those sections, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both.

Enhanced punishment for offence under section 15 after previous conviction.

17. Whoever, having been convicted of an offence punishable under section 15, is again guilty of an offence punishable under that section, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both.

Security for abstaining from commission of certain offences.

18. (1) Whenever any person is convicted of an offence punishable under section 10, section 12, section 13, or section 14, and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(2) The bond shall be in the form contained in Schedule I, and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters con-

nected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Penalty for contravention of section 9.

19. Whoever engages in or controls any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, otherwise than in accordance with the conditions of a licence granted under section 9, shall be punished with fine which may extend to one thousand rupees.

Attempts

20. Whoever attempts to commit an offence punishable under this Chapter, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

Abetments.

21. (1) Whoever abets an offence punishable under this Chapter shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for the offence.

(2) A person abets an offence within the meaning of this section who, in British India, abets the commission of any act in a place without and beyond British India which—

(a) would constitute an offence if committed within British India; or

(b) under the laws of such place, is an offence relating to dangerous drugs having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within British India.

CHAPTER IV.

PROCEDURE.

Power to issue warrants.

22. (1) The Collector, or other officer authorized by the Local Government in this behalf, or a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence punishable under Chapter III, or for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed.

(2) The officer to whom a search warrant under sub-section (1) is addressed shall have all the powers of an officer acting under section 23.

Power of entry, search, seizure and arrest without warrant.

23. (1) Any officer of the department of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, authorized in this behalf by the Local Government, who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,—

(*a*) enter into any such building, vessel or place;

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry;

(*c*) seize such drug and all materials used in the manufacture thereof and any other article which he has reason to believe to be liable to confiscation under section 33 and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug; and

(*d*) detain and search, and, if he think proper, arrest any person who he has reason to believe to have committed an offence punishable under Chapter III relating to such drug:

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, vessel or enclosed place at any time between sunset and sunrise, after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

Power of seizure and arrest in public places.

24. Any officer of any of the departments mentioned in section 23 may—

(*a*) seize, in any public place or in transit, any dangerous drug in respect of which he has reason to believe an offence punishable under Chapter III has been committed, and, along with such drug, any other article liable to confiscation under section 33, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug;

(*b*) detain and search any person whom he has reason to believe to have committed an offence punishable under Chapter

III, and, if such person has any dangerous drug in his possession and such possession appears to him to be unlawful, arrest him and any other persons in his company.

25. The provisions of the Code of Criminal Procedure, 1898, shall apply, in so far as they are not inconsistent with the provisions of sections 22, 23 and 24, to all warrants issued and arrests and searches made under those sections. Mode of making searches and arrests.

26. All officers of the several department mentioned in section 23 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act. Obligations on officers to assist each other.

27. Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior. Report of arrests and seizures.

28. Any person empowered under section 23 or section 24 who— Punishment for vexatious entry, search, seizure or arrest.

(*a*) without reasonable grounds of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place;

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any dangerous drug or other article liable to be confiscated under section 33, or of seizing any document or other article liable to seizure under section 23 or section 24; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person,

shall be punished with fine which may extend to five hundred rupees.

29. (1) Every person arrested and article seized under a warrant issued under section 22 shall be forwarded without delay to the authority by whom the warrant was issued; and every person arrested and article seized under section 23 or section 24 shall be forwarded without delay to the officer in charge of the nearest police station or to the nearest officer of the Excise Department empowered under section 30. Disposal of persons arrested and of articles seized.

(2) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

30. The Local Government may invest any officer of the Excise Department or any class of such officers, with the powers of an officer in charge of a police station for the investigation of offences under this Act. Power to invest Excise officers with powers of an officer in charge of a police station

Jurisdiction to try offences.

31. No Magistrate shall try an offence under this Act unless he is a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government in this behalf.

Presumption from possession of illicit articles.

32. In trials under this Act it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under Chapter III in respect of—

(a) any dangerous drug;

(b) any poppy or coca plant growing on any land which he has cultivated;

(c) any apparatus specially designed or any group of utensils specially adapted for the manufacture of any dangerous drug; or

(d) any materials which have undergone any process towards the manufacture of a dangerous drug, or any residue left of the materials from which a dangerous drug has been manufactured,

for the possession of which he fails to account satisfactorily.

Liability of illicit articles to confiscation.

33. (1) Whenever any offence has been committed which is punishable under Chapter III, the dangerous drug, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(2) Any dangerous drug lawfully imported, transported, manufactured, possessed, or sold along with, or in addition to, any dangerous drug which is liable to confiscation under sub-section (1), and the receptacles, packages and coverings in which any dangerous drug, materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages, and the animals, vehicles, vessels and other conveyances used in carrying the same, shall likewise be liable to confiscation:

Provided that no animal, vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that the owner thereof knew that the offence was being, or was to be or was likely to be, committed.

Procedure in making confiscations.

34. (1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the Court shall decide whether any article seized under this Chapter is liable to confiscation under section 33; and, if it decides that the article is so liable, it may order confiscation accordingly.

(2) Where any article seized under this Chapter appears to be liable to confiscation under section 33, but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer authorized by the Local Government in this behalf, may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided, further, that, if any such article, other than a dangerous drug, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(3) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

Power to make rules regulating disposal of confiscated articles and rewards.

35. The Governor-General in Council may make rules to regulate—

(a) the disposal of all articles confiscated under this Act, and

(b) the rewards to be paid to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

CHAPTER V.

MISCELLANEOUS.

Provisions regarding rules.

36. (1) All rules made under this Act shall be subject to the condition of previous publication.

(2) Rules made by the Governor-General in Council shall be published in the *Gazette of India*, and rules made by a Local Government shall be published in the local official Gazette or, where there is no local official Gazette, in the *Gazette of India*.

(3) Rules made by a Local Government shall not be inconsistent with any rules made by the Governor-General in Council, and shall be void to the extent of any such inconsistency.

Recovery of sums due to Government.

37. (1) Any arrear of any licence fee chargeable by any rule made under this Act may be recovered from the person primarily liable to pay the same or from his surety (if any) as if it were an arrear of land-revenue.

(2) When any person, in compliance with any rule made under this Act, gives a bond (other than a bond under section 18) for the performance of any act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty, within the meaning of section 74 of the Indian Contract Act, 1872; and, upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land-revenue.

Application of the Sea Customs Act, 1878.

38. All prohibitions and restrictions imposed by or under this Act on the import into British India, the export from British India, and the transhipment of dangerous drugs, shall be deemed to be prohibitions and restrictions imposed under section 19 or section 134 of the Sea Customs Act, 1878, and the provisions of that Act shall apply accordingly:

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this section shall prevent the offender from being punished under this Act.

Saving of local and special laws.

39. (1) Nothing in this Act or in the rules made thereunder shall affect the validity of any enactment of a local Legislature for the time being in force, or of any rule made thereunder, which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by or under this Act, on the consumption of or traffic in any dangerous drug within British India.

(2) Nothing in this Act or in the rules made thereunder shall affect the validity of the Opium Act, 1857:

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this sub-section shall prevent the offender from being punished under this Act.

Amendment of certain enactments.

40. The enactments specified in the first three columns of Schedule II are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Saving of things already done.

41. When anything done under any enactment specified in the first three columns of Schedule II is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under this Act or under that enactment as hereby amended as the case may require.

SCHEDULE I.

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE DANGEROUS DRUGS ACT, 1930.

(*See Section* 18.)

Whereas I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, for the term of , I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King, Emperor of India, the sum of rupees

Dated this day of 19 .

(*Signature.*)

(*Where a bond with sureties is to be executed, add*—)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King Emperor of India, the sum of rupees .

Dated this day of 19 .

(*Signatures.*)

SCHEDULE II.

AMENDMENTS OF LOCAL ACTS.

(*See section* 40.)

Acts of the Governor-General in Council.

Year.	No.	Short title.	Amendments.
1878	I	The Opium Act, 1878.	In section 3— (*a*) for the definition of "opium" the following definition shall be substituted, namely:— " 'opium' means— (*i*) the capsules of the poppy (*Papaver somniferum L.*); (*ii*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and (*iii*) any mixture, with or without neutral materials, of any of the above forms of opium, but does not include any preparation containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930;" and (*b*) for the definitions of "import" and "export" the following definitions shall be substituted, namely:— " 'import' means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930; 'export' means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930; and " In section 4— (*a*) clauses (*a*) and (*b*) shall be omitted; and

Year.	No.	Short title.	Amendments.
1878	I	The Opium Act, 1878—*Contd.*	(*b*) clauses (*c*), (*d*), (*e*) and (*f*) shall be re-lettered as clauses (*a*), (*b*), (*c*) and (*d*), respectively. In section 5— (*a*) clauses (*a*) and (*b*) shall be omitted; (*b*) clauses (*c*), (*d*), (*e*) and (*f*) shall be re-lettered as clauses (*a*), (*b*), (*c*) and (*d*), respectively; and (*c*) in the proviso, for the word and figure "section 6" the words and figures "the Dangerous Drugs Act, 1930" shall be substituted. Section 6 shall be omitted. In section 9— (*a*) clauses (*a*) and (*b*) shall be omitted; and (*b*) clauses (*c*), (*d*), (*e*), (*f*) and (*g*) shall be re-lettered as clauses (*a*), (*b*), (*c*), (*d*) and (*e*), respectively. In section 11— (*a*) clause (*a*) shall be omitted; (*b*) in clause (*c*), for the word, brackets and letters "(*d*) or (*e*)" the word, brackets and letters "(*b*) or (*c*)" shall be substituted; (*c*) in clause (*d*), for the letter and brackets "(*f*)" the letter and brackets "(*d*)" shall be substituted; and (*d*) clause (*b*), and clauses (*c*) and (*d*) as so amended, shall be re-lettered as clauses (*a*), (*b*) and (*c*), respectively. In section 14— (*a*) the word "manufactured," shall be omitted; and (*b*) in clause (*c*), the words "and all materials used in the manufacture thereof" shall be omitted. Section 22 shall be omitted.
1898	VI	The Indian Post Office Act, 1898.	In section 25, after the words "any specified description" the words "or where the import or export into or from British India of goods of any specified description has been prohibited or restricted by or under any other enactment for the time being in force" shall be inserted.

Regulation by the Governor-General in Council.

Year.	No.	Short title.	Amendments.
1915	I	The Excise Regulation, 1915.	In section 2— (*a*) for the definition of "export" in clause (8), the following definition shall be substituted, namely:— "(8) 'export' means to take out of the province: Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (11), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*b*) the definition of "hemp plant" in clause (9) shall be omitted; (*c*) for the definition of "import" in clause (10), the following definition shall be substituted, namely:— "(10) 'import' means to bring into the province: Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (11), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; (*d*) for the definition of "intoxicating drug" in clause (11), the following definition shall be substituted, namely:— "(11) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi,* or *ganja*; (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Chief Commissioner may, by notification, declare to be an intoxicating drug,

Year.	No.	Short title.	Amendments.
1915	I	The Excise Regulation, 1915—*Contd.*	such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930''; (*e*) for the definition of ''transport'' in clause (19), the following definition shall be substituted, namely:— ''(19) 'transport' means to move from one place to another within the province; provided that import and export from British Baluchistan from and to the territories administered by the Agent to the Governor-General in Baluchistan as such Agent shall be deemed to be transport;'' Section 3 shall be omitted. In sections 13, 33 and 50, the words ''or coca'', wherever they occur, shall be omitted. In clause (*d*) of sub-section (1) of section 30, after the words ''of any offence'', where they occur for the first time, the words ''under the Dangerous Drugs Act, 1930, or'' shall be inserted. In section 33, the proviso shall be omitted.

Madras Act.

Year.	No.	Short title.	Amendments.
1886	I	The Madras Abkari Act, 1886.	In section 3— (*a*) for the definition of ''intoxicating drug'' in clause (13) the following definition shall be substituted, namely:— ''(13) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Governor in Council may, by notification, declare to be an intoxicating drug,

Year.	No.	Short title.	Amendments.
1886	I	The Madras Abkari Act, 1886—*Contd.*	such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930"; (*b*) to the definition of "import" in clause (15) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930;" and (*c*) to the definition of "export" in clause (16) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930;". In section 8, after the word "importation" the words "into British India" shall be inserted. In section 12— (*a*) the words "or *Indica*" shall be omitted; (*b*) the words "or coca plant (*Erythoxylon coca*)" shall be omitted; and (*c*) the words "or coca", where they occur after the word "hemp", shall be omitted. In clause (*c*) of section 26, after the words "of any offence", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In clause (*l*) of sub-section (2) of section 29, the words "and coca" shall be omitted, and for the word "plants", wherever it occurs, the word "plant", shall be substituted. In clause (*c*) of section 55— (*a*) the words "or *Indica*" shall be omitted; (*b*) the words "the coca plant (*Erythoxylon coca*)" shall be omitted; and (*c*) for the word "plants" the word "plant" shall be substituted.

Year.	No.	Short title.	Amendments.
			Bombay Act.
1878	V	The Bombay Abkari Act, 1878.	In section 3— (*a*) for the definition of "intoxicating drug" in clause (9) the following definitions shall be substituted, namely:— "(9) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which Government may, by notification in the *Bombay Government Gazette,* declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930. (9*A*) 'hemp' means any variety of the Indian hemp plant from which intoxicating drugs can be produced"; (*b*) to the definition of "to import" in clause (10) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (9) and hemp, it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930;" and (*c*) to the definition of "to export" in clause (10) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (9) and hemp, it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930;" Clause (2) of sub-section (1) of section 16 shall be omitted.

Year.	No.	Short title.	Amendments.
1878	V	The Bombay Abkari Act, 1878—*Contd.*	In clause (*c*) of sub-section (1) of section 32, after the words "of any offence", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In sub-section (1) of section 32, the proviso shall be omitted. Sections 43A and 43B shall be omitted.

Bengal Act.

Year.	No.	Short title.	Amendments.
1909	V	The Bengal Excise Act, 1909.	In section 2— (*a*) clause (4A) shall be omitted; (*b*) to the definition of "export" in clause (11) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*c*) to the definition of "import" in clause (12) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*d*) for the definition of "intoxicating drug" in clause (13) the following definition shall be substituted, namely:— "(13) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

Year.	No.	Short title.	Amendments.
1909	V	The Bengal Excise Act, 1909—*Contd.*	(*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930''. Section 3 shall be omitted. In clause (*d*) of sub-section (1) of section 42, after the words ''of any offence punishable'', where they occur for the second time, the words ''under the Dangerous Drugs Act, 1930, or'' shall be inserted. In section 46, the proviso shall be omitted.

United Provinces Act.

Year.	No.	Short title.	Amendments.
1910	IV	The United Provinces Excise Act, 1910.	In section 3— (*a*) for the definition of ''intoxicating drug'' in clause (12) the following definition shall be substituted, namely:— ''(12) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930''; (*b*) to the definition of ''import'' in clause (17) the following proviso shall be added, namely:— ''Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (12), it means to import interprovincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930'';

Year.	No.	Short title.	Amendments.
1910	IV	The United Provinces Excise Act, 1910—*Contd.*	(*c*) to the definition of "export" in clause (18) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (12), it means to export interprovincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; and (*d*) the definition of "cocaine" in clause (23) shall be omitted. Section 5 shall be omitted. In clause (*c*) of sub-section (1) of section 34, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In sections 51, 54, 69 and 70, the word, figures and letter "section 60A" shall be omitted. In section 60, the words "if the offence is committed in respect of cocaine, with imprisonment which may extend to two years or with fine or with both, and in any other case" shall be omitted. Sections 60A and 60B shall be omitted.
		Punjab Act.	
1914	I	The Punjab Excise Act, 1914.	In section 3— (*a*) to the definition of "export" in clause (10) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to export interprovincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*b*) to the definition of "import" in clause (12) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to import interprovincially as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*c*) for the definition of "intoxicating drug" in clause (13) the following definition shall be substituted, namely:— " 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*;

Year.	No.	Short title.	Amendments.
1914	I	The Punjab Excise Act, 1914—*Contd.*	(*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930''. In clause (*b*) of sub-section (1) of section 20, the words ''or coca plant'' shall be omitted. In clause (1) of section 26, in proviso (*a*) to section 32, in sub-clause (*ii*) of clause (*a*) of section 59, and in clause (*b*) of sub-section (2) of section 61, the words ''or coca'' shall be omitted. In clause (*d*) of section 36, after the words ''of any offence punishable'', where they occur for the second time, the words ''under the Dangerous Drugs Act, 1930, or'' shall be inserted.

Burma Acts.

Year.	No.	Short title.	Amendments.
1909	VII	The Burma Opium Law Amendment Act, 1909.	For section 2 the following section shall be substituted, namely:— ''2. In this Act, 'opium' includes opium as defined in section 3 of the Opium Act, 1878, and opium derivatives as defined in clause (*f*) of section 2 of the Dangerous Drugs Act, 1930.'' In clause (*a*) of section 3, after the words and figures ''Opium Act, 1878,'' the words and figures ''or the Dangerous Drugs Act, 1930,'' shall be inserted. In sub-section (1) of section 4— (*a*) for the words ''the Opium Law for the time being in force'' the words ''any law for the time being in force relating to opium'' shall be substituted; (*b*) after the words and figures ''Opium Act, 1878,'' the words and figures ''or section 22 of the Dangerous Drugs Act, 1930,'' shall be inserted;

Year.	No.	Short title.	Amendments.
1909	VII	The Burma Opium Law Amendment Act, 1909—*Contd.*	(*c*) in clauses (*b*) and (*c*), for the words "the Opium Law" the words "any law for the time being in force relating to opium" shall be substituted.
1917	V	The Burma Excise Act, 1917.	In section 2— (*a*) clause (*d*) shall be omitted; (*b*) to the definition of "Export" in clause (*i*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*l*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*c*) clause (*j*) shall be omitted; (*d*) to the definition of "Import" in clause (*k*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*l*), it means to export interprovincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*e*) for the definition of "Intoxicating drug" in clause (*l*) the following definition shall be substituted, namely:— "'Intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930".

Year.	No.	Short title.	Amendments.
1917	V	The Burma Excise Act, 1917—*Contd.*	In section 11, for the words "the coca plant or any plant specified as an intoxicating drug by notification under section 2 (*l*) (*iii*)" the words "or any plant declared to be an intoxicating drug by a notification under section 2 (*l*) (*iv*)" shall be substituted. In clause (*g*) of section 30, for the words "coca plant or any plant specified as an intoxicating drug by notification under section 2 (*l*) (*iii*)" the words "or any plant declared to be an intoxicating drug by a notification under section 2 (*l*) (*iv*)" shall be substituted. Section 32 shall be omitted. In sections 44, 45, 46, 54, 55, 56 and 57, the word and figures "section 32" shall be omitted. Section 64 shall be omitted.

Eastern Bengal and Assam Act.

Year.	No.	Short title.	Amendments.
1910	I	The Eastern Bengal and Assam Excise Act, 1910.	In section 3— (*a*) to the definition of "Export" in clause (11) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to export interprovincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*b*) to the definition of "Import" in clause (12) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to import interprovincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*c*) for the definition of "Intoxicating drug" in clause (13) the following definition shall be substituted, namely:— " 'Intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

Year.	No.	Short title.	Amendments.
1910	I	The Eastern Bengal and Assam Excise Act, 1910—*Contd.*	(*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930''. Section 5 shall be omitted. For clause (*b*) of sub-section (1) of section 15 the following clause shall be substituted, namely:— ''(*b*) no hemp plant (*Cannabis sativa L.*) shall be cultivated or collected; In clause (*c*) of sub-section (1) of section 29, after the words ''of any offence punishable'', where they occur for the second time, the words ''under the Dangerous Drugs Act, 1930, or'' shall be inserted. For sub-clause (*ii*) of clause (*e*) of sub-section (2) of section 36 the following sub-clause shall be substituted, namely:— ''(*ii*) the cultivation of the hemp plant (*Cannabis sativa L.*), the collection of the spontaneous growth of such plant, and the preparation of any intoxicating drug from such growth''. In clause (*b*) of section 53, the words ''or any cocaine-yielding plant of the genus *Erythroxylon*'' shall be omitted. In clause (*a*) of sub-section (1) of section 67, the words ''or cocaine-yielding plant of the genus *Erythroxylon*'' shall be omitted. In clause (*a*) of section 68, the words ''cocaine-yielding plant of the genus *Erythroxylon*'' shall be omitted.
		Bihar and Orissa Act.	
1915	II	The Bihar and Orissa Excise Act, 1915.	In section 2,— (*a*) clause (4) shall be omitted; (*b*) to the definition of ''export'' in clause (10) the following proviso shall be added, namely:— ''Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to export interprovincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930'';

Year.	No.	Short title.	Amendments.
1915	II	The Bihar and Orissa Excise Act, 1915—*Contd.*	(*c*) to the definition of "import" in clause (12) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (13), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; (*d*) the definition of "hemp plant" in clause (11) shall be omitted; and (*e*) for the definition of "intoxicating drug" in clause (13) the following definition shall be substituted, namely:— "'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas,* that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930."
			Section 3 shall be omitted.
			In clauses (*b*) and (*c*) of section 13, the words "or any cocaine-yielding plant of the genus *Erythroxylon*" shall be omitted.
			In clause (*d*) of sub-section (1) of section 42, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted.
			In section 47— (*a*) in clauses (*b*) and (*c*), the words "or any cocaine-yielding plant of the genus *Erythroxylon*" shall be omitted; and

Year.	No.	Short title.	Amendments.
1915	II	The Bihar and Orissa Excise Act, 1915—*Contd.*	(*b*) the words "or, if the exciseable article in respect of which an offence under clause (*a*), or clause (*f*), or clause (*h*) has been committed is cocaine, to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both" shall be omitted. In section 60, the words "other than cocaine" shall be omitted.

Central Provinces Act.

Year.	No.	Short title.	Amendments.
1915	II	The Central Provinces Excise Act, 1915.	In section 2— (*a*) clauses (3-A) and (4) shall be omitted; (*b*) to the definition of "export" in clause (9) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (12), it means to export interprovincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*c*) clause (10) shall be omitted; (*d*) to the definition of "import" in clause (11) the following further proviso shall be added, namely:— "Provided further that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (12), it means to import interprovincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*e*) for the definition of "intoxicating drug" in clause (12) the following definition shall be substituted, namely:— " 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi* or *ganja;* (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

Year.	No.	Short title.	Amendments.
1915	II	The Central Provinces Excise Act, 1915—*Contd.*	(*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930.' Section 3 shall be omitted. In clause (*b*) of section 13, in clause (*b*) of sub-section (1) of section 17, in clause (*a*) of proviso (1) to section 26, in clause (*c*) of section 34, in section 50, and in clause (*d*) of sub-section (2) of section 62, the words "or coca plant" or "or the coca plant", as the case may be, shall be omitted. In clause (*e*) of sub-section (1) of section 31, after the words "of any offence", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In section 34, the proviso shall be omitted.

THE INDIAN SALE OF GOODS ACT, 1930.

ACT NO III OF 1930.

PREFATORY NOTES:—*History of the Act.*—The history of this enactment has been explained as follows by the First Select Committee in their report. The Committee was composed of such lawyers of eminence as Mr. D. F. Mulla, Mr. Jayakar, Mr. Alladi Krishnasami Iyer, the Advocate-General, Madras, with the Hon. Sir B. L. Mitter, Law Member of the Council of the Governor-General as the Chairman. They said:—

2. A Bill to amend and define the law relating to the sale of goods, with the notes setting forth the reasons for the proposed amendments, which had already been prepared in the Legislative Department of the Government of India, was placed before us, and formed the basis of our discussions.

3. Before the passing of the Indian Contract Act, 1872, Chapter VII of which contains the law relating to the sale of goods or moveables, the law on this subject was not only not uniform throughout British India but was also, outside the limits of the original jurisdiction of the High Courts, extremely uncertain in its application. Within the limits of the Presidency-towns, the rules of English law, including those in the Statute of Frauds, were applied, whilst in the mufassal it was doubtful whether the Statute of Frauds was applicable and, as observed by the Indian Law Commissioners in their second report, the Judge was to a great extent without the guidance of any positive law beyond the rule that his decision should be such as he deemed to be in accordance with "justice, equity and good conscience." To remedy this unsatisfactory state of affairs,

the Indian Law Commissioners framed, in their second report, dated the 28th July 1866, a set of rules relating to the general law of contracts including therein provisions relating to the sale of moveables. The draft of the Law Commissioners underwent several changes at the hands of the then Law Members, Sir Henry Maine and Sir James Stephen, and also in the Select Committee of the Indian Legislature. But, as stated by Sir James Stephen himself while presenting the report of the Select Committee on the Indian Contract Bill, the chapter on the sale of goods, except in regard to the rule as to market overt, represented generally the English law on the subject as it then stood.

4. The rules of English law relating to the sale of goods had grown up mainly out of judicial decisions. Along with the general law of contract, they were the product of many generations and were adapted to the circumstances and exigencies of the times and the dealings of the people. They were, however, largely dominated by the provisions of the Statute of Frauds which was passed in the reign of Charles The Second. The Law Commissioners, as well as those who were ultimately responsible for framing the Indian Contract Act, at once realized that the provisions of the Statute of Frauds, although followed in the Presidency-towns, were not suitable to the conditions prevailing in this country, and that "any law relating to this important subject must at any rate be free from the inexpressible confusion and intricacy which is thrown over every part of that Statute in consequence of its vague language".

5. In 1870, various branches of law were being codified in British India. The main object in view was, in the words of Sir James Stephen, "that of providing a body of law to the Government of the country so expressed that it might be readily understood both by English and Native Government servants without extrinsic help from the English law libraries". What was urgently needed was a guide for the judge or magistrate who had but little legal training, derived little or no assistance from the Bar and worked at a distance from any law library.

6. Whatever merit the simple and elementary rules embodied in the Indian Contract Act may have had, and however sufficient and suitable they may have been for the needs which they were intended to meet in 1872, the passage of time has revealed defects the removal of which has become necessary in order to keep the law abreast of the developments of modern business relations. The law relating to the sale of goods appertains mainly to mercantile transactions. There can be no doubt that during the last half century conditions in this country relating to trade and business have undergone material changes. Methods of business have largely altered and new relations have arisen between man and man. In dealing with these relations, it has been necessary to give recognition to new principles, and the Indian Courts have found that a law enacted more than fifty years ago is entirely inadequate to enable them to deal with these new relations or give effect to the new principles. The result has been that on various occasions the Courts have had to hold that Chapter VII of the Indian Contract Act is not exhaustive, and to import therein analogies from the decisions of the English Courts.

7. The English law relating to the sale of goods which was admittedly the basis of Chapter VII of the Indian Contract Act has itself since 1872 undergone drastic changes, and was finally codified in 1893 by the present Sale of Goods Act (56 & 57 Vict., c. 71), which discards many of the old common law rules upon which Chapter VII of the Indian Act was based, in favour of provisions more suited to modern conditions or more convenient in actual practice.

8. By the Bill referred to for our consideration, the law relating particularly to the sale of goods is embodied in a separate enactment, although many of the general principles contained in the Indian Contract Act will continue to be applicable thereto. When Sir James Stephen moved the Indian Contract Bill, he admitted that it was not, and could not pretend to be, a complete code upon the branch of law to which it related. He, however, expressed a hope that in later years it would be easy to enact supplementary chapters relating to the several branches of the law of contract which the Bill did not touch. This hope has never been fulfilled. In later years it was found more convenient to have separate enactments for the several branches of the law of contract, *e.g.*, the Transfer of Property Act, the Negotiable Instruments Act, and the Merchant Shipping Act. In our opinion, in view of the complexity of modern conditions, the time has now come when this process should be accelerated by embodying the different branches of law relating to contract in separate self-contained enactments; and we hope that the Bill which we attach to our Report may be passed into law at an early date and may be but the first of the series required to complete the task which we have outlined above.

9. The Bill referred to us was mainly based on the English Sale of Goods Act, 1893. This Act has stood the test of nearly thirty-five years of practical application, and in the words of Lord Parker in *re* Parchim, (1918) A. C. 157 at pages 160-161, "is a very successful and correct codification of this branch of the mercantile law". As is shown in the note below, most of the Colonies and Overseas Dominions have adopted and re-enacted the Act with only such small variations as have been found necessary to adapt its provisions to local circumstances. It is also remarkable that the Uniform Sales Act, passed in 1906 in the United States of America and adopted in twenty out of fifty-three States and territories, is based very largely on the English Act. These facts constitute striking evidence of the completeness and the universal suitability of its provisions.

10. In mercantile transactions a conflict of laws should, as far as possible, be avoided. Uniformity of law in various countries, particularly in those which have business or trade dealings with one another, is highly convenient and desirable. We, therefore, approve of the proposal to adopt the provisions of the English Sale of Goods Act so far as they are suitable to Indian conditions as the basis for the present Bill, and thus to make the Indian Law relating to the sale of goods as nearly as possible uniform with the law in force in other parts of the British Empire.

11. The provisions of the English Act are far more elaborate and comprehensive than those of Chapter VII of the Indian Contract Act, and in their arrangement the English Act is more logical and methodical. As we have already observed, it has revised and brought up to date the rules of the English Common Law. Moreover, the adoption of the English Act as the basis of the present Bill will enable Indian Courts to interpret its provisions in the light of the decisions of the English Courts.

12. In adopting the provisions of the English Act we have not been unmindful of the needs and exigencies of this country. Wherever it has been found that a rule obtaining in England, such as that relating to market overt, is not suitable to Indian conditions, the rule has been rejected. We have, moreover, carefully scrutinised the provisions of the English Act in the light of the decisions of English Courts since 1893, and where those decisions have shown the provisions of the English Act to be defective or ambiguous, we have attempted to improve upon them. We have also retained several of the provisions of the Indian Contract Act which we consider necessary or useful to meet special conditions existing in India.

The Bill as revised by us on the above lines is attached to our Report as Appendix C.

13. A detailed explanation of the various clauses of the Bill is set out in our notes on clauses. But we think it desirable to draw attention to the following few points of importance:

(a) The present Bill embodies the principle that the question whether a contract for the sale of goods does or does not pass the property in the goods from the buyer to the seller must in all cases be determined by the intention of the parties to the contract. The provisions of Chapter VII of the Indian Contract Act are vague and conflicting on this point. The Bill codifies the rules by which that intention may be ascertained, but the operation of these rules will be displaced by any terms of the contract defining the intention or by any attendant circumstances, including the conduct of the parties, rendering it ascertainable. In following this principle, we have borne in mind that in mercantile matters the certainty of the rule is often of more importance than the substance. If the parties know beforehand what their legal position is, they can provide for their particular wants by express stipulations. Sale, after all, is a consensual contract, and the Bill does not prevent the parties from making any bargain they please. Its object is to lay down clear rules for the cases where the parties have either formed no intention or failed to express it.

(b) The distinction between a sale and an agreement to sell, which was not clear in Chapter VII of the Indian Contract Act, has been clearly brought out. This distinction is very necessary to determine the rights and liabilities of the parties to the contract.

(c) It is made clear that a contract of sale can be made by mere offer and acceptance. Neither payment nor delivery is necessary for the purpose.

(d) Before 1893 the law in England relating to warranties and conditions was in a very confused state. In the Indian Contract Act the word "warranty" has been used in a very vague sense. In some provisions it denotes a condition which would enable a party aggrieved by its breach to repudiate the contract, while in others it enables him to claim damages only. In the Bill this ambiguity has been removed.

(e) There is much conflict of decisions in India regarding the meaning of section 108 of the Indian Contract Act which relates to sales by ostensible owners. This is to a certain extent due to the obscure phraseology of the section itself. We had tried to remove this obscurity in clauses 27 to 30 of the Bill to simplify the law on the subject.

(f) We have elaborated the rules relating to delivery to carriers, stoppage in transit and auction sales.

(g) We have anxiously considered the question of the retention of the Illustrations appearing in Chapter VII of the Indian Contract Act and of the insertion of Illustrations to new provisions. Our decision is that the better policy is to forego all Illustrations, leaving the Courts to construe the sections as they stand.—(*Report of the 1st Select Committee.*)

This being a highly technical piece of Legislation, the Bill was again referred to another Select Committee, who in the course of their report said:—

"The History of this Bill is as follows:—In 1926-27 an exhaustive examination of the case-law bearing on certain portions of the Indian Contract Act, 1872, including Chapter VII, which embodies the law relating to sale of goods, was made in the Legislative Department under the supervision of the late Mr. S. R. Das, then Law Member of the Executive Council of the Governor-General. In 1928 the results of that examination were considered by Mr. D. F. Mulla (now Sir Dinsha Mulla), at that time holding the office of the Law Member, and a draft Bill was prepared on the lines of the

English Sale of Goods Act, 1893 (56 & 57 Vic., c. 71), embodying the provisions of law relating to sale of goods in a separate enactment. In order to ensure general approval for a measure of such a highly technical character, the Government of India in 1929 appointed a Committee consisting of the Honourable the Law Member, Sir Dinsha Mulla, Mr. A. Krishnaswami Ayyar, the Advocate-General of Madras, and Mr. M. R. Jayakar, Barrister-at-Law, M.L.A., to consider generally the question of amending the law relating to sale of goods contained in Chapter VII of the Indian Contract Act, 1872, and in particular to examine the draft Bill. This Committee agreed to the proposal that the law relating to the sale of goods should be embodied in a separate enactment, and considered the draft Bill referred to them, in which they made certain additions and alterations. The Bill as settled by the Committee was circulated for opinion by executive order, and was introduced in the Legislative Assembly in September 1929. The reasons for the various clauses of the Bill are fully set out in the Report of the Committee which was appended as a Statement of Objects and Reasons thereto. The opinions received show that the Bill has met with almost unanimous approval in legal and commercial circles. The object, therefore, for which the Committee was appointed has been amply justified.

After considering the opinions received, we find ourselves in agreement with almost all the provisions contained in the Bill. We entirely approve of the scheme followed in the Bill in adopting as far as possible the provisions of English Sale of Goods Act, 1893, in arrangement as well as wording. As pointed out in paragraph 9 of the Committee's Report referred to above, that Act has met with uniform approval and has stood the test for more than a third of a century. It has been adopted in most of the overseas Dominions and Colonies and also in the United States of America. We find in commercial transactions there ought to be as far as possible uniformity of law in countries which have dealings with one another."—(*Report of the 2nd Select Committee.*)

As stated above, the Act is based to a very large extent on the English Sale of Goods Act.

The History of the English Sale of Goods Act is as follows:—The English Sale of Goods Bill was originally drafted by Mr. Chalmers in 1888. He then settled it in consultation with Lord Herschell, who kindly consented to take charge of it. In 1889, Lord Herschell introduced it in the House of Lords, not to press it on, but to get criticisms on it. In 1890 there was no opportunity of proceeding with it, but in 1891 the Bill was again introduced in the Lords, and referred to a Select Committee. It had, in the meantime, been criticised by Lord Bramwell, Mr. Walter Ker, and other lawyers and the Bar Committee had submitted a valuable memorandum on it. In the Lords it was carefully considered by a Select Committee, consisting of Lords Herschell, Halsbury, Bramwell, and Watson. Professor Richard Brown and Mr. Spens of Glasgow took an infinity of pains to suggest the necessary amendments. In 1893 the Bill was again passed through the Lords in the form in which it was settled in 1892. It was then considered by a Select Committee of the House of Commons and further amended. The Committee consisted of Sir Charles Russell, A.G., Sir R. Webster, Q.C., Mr. Asher, Q.C. (the Scotch Solicitor-General), Mr. Shiress Will, Q.C., Mr. Bousfield, Q.C., Mr. Ambrose, Q.C., and Mr. Mather. Some of the amendments introduced by the Commons were modified on its return to the Lords, and it was finally settled in its present form. The Bill, in its original form, was drafted on the same lines as the Bills of Exchange Bill. On Lord Herschell's advice it endeavoured to reproduce as exactly as possible the existing law, leaving any amendments that might seem desirable to be introduced in committee on the authority of the Legislature. In mercantile matters, the certainty of the rule, is often of more importance than the substance of the rule (*Cf.* Lockyer *v.* Offley, 1 T. R., at p. 259). If the parties know before hand what their

legal position is, they can provide for their particular wants by express stipulation. Sale is a consensual contract, and the Act does not seek to prevent the parties from making any bargain they please. Its object is to lay down clear rules for the case where the parties have either formed no intention, or failed to express it.

The codification in England of the law relating to the sale of goods has produced a somewhat unexpected benefit. It has to a great extent produced uniformity in this branch of the law throughout the dominions of the Crown. Most of the Colonies have adopted and re-enacted the Act, with, of course, small variations to adapt it to local circumstances.

Defects in the Contract Act.—As has been stated the Indian Contract Act is not exhaustive of the Law relating to Contracts. *See* the Preamble to that Act which refers only to certain parts of the Law of Contracts; *also* 21 M. L. J. 600: 11 M. L. T. 57: 11 I. C. 570: (1911) 2 M. W. N. 285; 18 Cal. 620: 18 I. A. 121 (P. C.); A. I. R. 1924 Cal. 990; 25 Bom. L. R. 778: 77 I. C. 150: A. I. R. 1924 Bom. 41. The Contract Act was also found defective in other respects (*See* A. I. R. 1924 Bom. 41).

The Bill which afterwards became the Contract Act was drawn in 1866 in England by the Indian Law Commissioners. In the following year it was introduced in the Council of the Governor-General during the absence of Mr. (afterwards Sir Henry) Maine by the Right Hon. W. N. Massey, referred to a Select Committee, and published and circulated to the Local Governments. Thereupon a controversy arose between the Secretary of State and the Commissioners on the one side, the Home and the Indian authorities on the other, as to the Commissioners' proposal that all penalties should be treated as liquidated damages, and that the ownership of goods may be acquired by buying them from any person who is in possession of them, if the buyer acts in good faith, and under circumstances which do not raise a presumption that the possessor has no right to sell them, in other words, that every place in India should become a market overt. The result was that the Secretary of State permitted the Government of India to take their own course as to altering the Bill; the Commissioners resigned; and the Bill (whose early enactment was directed by the Secretary of State) was carried through the Council with some important amendments, by Mr. (afterwards Sir Fitzjames) Stephen. (*See* Whitley Stokes' Anglo-Indian Codes, Vol. 1, P. 534.)

Thus, in the preparation of the Contract Act, "not only the work of different hands, but work done from quite different points of view, had been pieced together with an incongruous effect......Another source of unequal workmanship, and sometimes of positive error, is that the framers of the Indian Codes, and of the Contract Act in particular, were tempted to borrow a section here and a section there from the draft Civil Code of New York, an infliction which the sound Lawyers of that State have been happily successful so far in averting from its citizens. This Code is in our opinion, and we believe in that of most competent Lawyers who have examined it, about the worst piece of codification ever produced. It is constantly defective and inaccurate, both in apprehending the rules of Law which it purports to define and in expressing the draftsman's more or less satisfactory understanding of them. The clauses on fraud and misrepresentation in contracts which are rather worse, if anything, than the average badness of the whole were most unfortunately adopted in the Indian Contract Act. Whenever this Act (the Indian Contract Act) was revised, it was felt that it would be necessary that everything taken from Mr. Dudley Field's Code should be struck out and the sections carefully recast after independent examination of the best authorities". In fact, the Contract Act passed through not less than three distinct stages: First, there was the draft prepared in England by the Indian Law Commission, uniform in style and possessing great merit as an elementary statement of the combined effect of common law and equity doctrine

as understood some forty years ago. Next, this was revised and in parts elaborated by the Legislative departments in India. The borrowing from the New York draft Code seems to belong to this phase. Lastly, Sir James made or supervised the final revision, and added the introductory definitions, which are wholly in a different style and not altogether in harmony with the body of the work. Evidently this process could not satisfy the conditions of a model Code. It is much to the credit of the workman that the result, after allowing for all drawbacks, was a generally sound and useful one. (*See* Preface to the first edition of Pollock's Contract Act.)

Mr. Whitley Stokes wrote as early as 1887 as follows:—"Unfortunately it (the Contract Bill) had been sent out to India in a very crude form; it never underwent the patient penetrating revision by a skilled draftsman necessary in the case of such a measure; and though the Indian Judges have loyally endeavoured to give effect to its provisions, these are so incomplete and sometimes so inaccurately worded that the time seems to have come for repealing the Act, and re-enacting it with the amendments in arrangements, wording and substance, suggested by the cases decided upon it during the last fourteen years. Should this be done it would be well to incorporate the existing laws relating to negotiable instruments, to exchanges, and to sales and mortgages and leases of immoveable property, and to add chapters on carriers and insurance." (Whitley Stokes' Anglo-Indian Codes.)

General operation.—"The English Sale of Goods Act, 1893," says Lord Parker, "is in fact merely a codification, and, as is generally admitted, a very successful and correct codification of this branch of English mercantile law. It embodies the principle that the question whether a contract for sale of goods does or does not pass the property in the goods contracted to be sold must in all cases be determined by the intention of the parties to the contract. The Act codifies the rules by which that intention is to be ascertained, but the inference based on the rules may always be displaced by the terms of the contract itself, or the surrounding circumstances, including the conduct of the parties. No doubt the municipal law with reference to which the parties enter into the particular transaction is material in considering their intention as to the passing of the property; and if it appears that they contracted with reference to a municipal law other than English and if it be further proved that that municipal law is different in any material respect from the English law, this will of course be taken into account in determining their intention. But having regard to the presumption that, unless the contrary be proved, the general law of a foreign country is the same as the English law the mere fact that the contract was entered into with reference to the law of another country will be immaterial." [*The Parchim,* (1918) A. C. 157, at pp. 160, 161 (P. C.)].

Places where the English Sale of Goods Act has been adopted as the basis for legislation.—The following countries have adopted the English Sale of Goods Act as the model for legislation on this branch of law: Alberta, Sale of Goods Ordinance, Terr. Cons. Ord. 1898, c. 39 (omits section 22).

Bahamas, Sale of Goods Ordinance, 4 Edw. 7, c. 37 [omits sections 49 (3) and 59, as applicable to Scottish law].

Barbados, 1895, No. 91 (omits sections 4, 17 and 22).

British Columbia, Rev. St. 1911, c. 203 (has section 4, value 50 dollars; has section 22, but introduces for protection of subsequent buyers, etc., special provisions as to formalities of conditional sales).

British Guiana, Sale of Goods Ordinance, 1913 (Ord. No. 26) (has section 4, value 48 dollars; has section 22, which applies to "goods sold in any public market held under the authority of the Government, or otherwise in accordance with the law, according to the usage of the market"; section 60, sub-section (2), adds to the savings the law of warranty and suretyship).

British Honduras, 1899, No. 14.

Ceylon, 1896, No. 11 (section 4 is applied to *all* contracts for the sale of goods, by omitting words limiting the value; section 22 is omitted).

Gibraltar, 1895, No. 20 (has section 4, value 250 pesetas; omits section 22).

Hong Kong, 1896, No. 7 (has section 4, value 100 dollars; has section 22 and defines market overt).

Isle of Man, 1895, Sale of Goods Act (has section 4, value £5; section 24-Eng. section 22, but is subject to the provisions of section 26 as to re-vesting of property on conviction where goods are *stolen*).

Jamaica, 1895, No. 12 (omits section 22).

Manitoba, Rev. Stat. 1902, c. 152 (has section 4, value 50 dollars; omits section 22).

New Brunswick, 1919, c. 4.

Newfoundland, 1899, 62 Vict., c. 2 (has section 4, value 50 dollars; omits section 22).

New Zealand, 1895, No. 23, now Sale of Goods Act, 1908, No. 168 (section 24-Eng. section 22, but sub-section (3) enacts that nothing in the Act "shall be construed to create a market overt in New Zealand").

North-West Territories of Canada, Consol. Ord. 1905, c. 39 [has section 4, value 50 dollars; omits section 22; and adopts sections 49 (3) and 59 from Scottish law].

Nova Scotia, Sale of Goods Act, 1910 [has section 4, value 40 dollars; and section 32, sub-section (3), is made to apply to "sea, lake, or river" transit].

Ontario, c. 40, 1920.

Prince Edward Island, 1919, c. 11.

Queensland, 1896, 60 Vict. No. 6 (omits section 22).

Saskatchewan, Sale of Goods Act, Rev. Stat. 1909, c. 147 [has section 4 (50 dollars). The proviso to section 14, sub-section (1) is not adopted, whereas sections 49 (3) (dealing with interest on the price) and 59 (payment into Court) are adopted from Scottish law].

South Australia, 1895, No. 630.

Tasmania, 1896, No. 14 [does not adopt the Scottish law declared in sections 49 (3) and 59; adds in section 31 the words "or warrant" after "writ of *fieri facias*" and before "or other writ". Section 27, sub-section (2), saves the law relating to "cattle"].

Trinidad and Tobago, 1895, No. 64 (omits section 22).

Victoria, 1896, No. 1422. (Part I is identical with the English Act, but the Victoria Act has a wider scope and provides for the law relating to consignees, mercantile agents, documents of title to goods, etc.)

Western Australia, 1895, No. 41.

(Benjamin on Sale, pages 196-197, Chalmers' Sale of Goods, pages 157-158, Journal of Comparative Legislation, 3rd Series, Vol. II, p. 79.)

Construction of the Act.—The Act, just as the English Sale of Goods Act, is divided into Chapters, and those Chapters are again sub-divided by various headings. Regard must be had to these divisions in construing the Act [Inglis *vs.* Robertson, (1898) A. C. 616 at p. 630].

Canon of construction.—The canon for construing a codifying Act was discussed by the House of Lords in a case on the Bills of Exchange Act, 1882. "I think," says Lord Herschell, "the proper course is in the first instance to examine the language of the statute, and see what is its natural meaning, uninfluenced by any considerations derived from the previous state

of the law; and not to start with inquiring how the law previously stood, and then assuming that it was probably intended to leave it unaltered, to see if it will bear an interpretation in conformity with this view."

But, of course, as he proceeds to point out, if any provision be of doubtful import resort to the previous state of the law would be perfectly legitimate [Vagliano *vs*. Bank of England, (1891) A. C. 107 at p. 145.]

Construction of mercantile contracts.—As a general rule there is in law no difference of construction between mercantile contracts and other instruments. The grammatical meaning is, as in other cases, the meaning to be adopted unless there be some reasons to the contrary. (Per Jessel, M. R.) Southwell *vs*. Bowditch, (1876) 1 C. P. D. p. 376, 45 L. J. C. P. 630. But "in looking at a document between businessmen, I do not think it is wise to look at technical rules of construction. I think it is well to look at the whole document, to look at the subject-matter with which the parties are dealing, and then to take the words in their natural and ordinary meaning and construe the document in that way." [Per Lord Halsbury Tatham *vs*. Burr, (1898) A. C. 382 (386); 67 L. J. P. 463.] In dealing with mercantile instruments the court must look at the substance of the matter and is not restrained to such nicety of construction as is the case with regard to conveyances, pleadings and the like. [Cockburn *vs*. Alexander, (1848) 6 C. B. 791, 814; 18 L. J. C. P. 74, 83, *per* Maule, J.] Mansfield, C. J., said that all mercantile documents ought to have a liberal interpretation. As has been laid down by the courts, in construing mercantile contracts the governing principle must be to ascertain the intention of the parties through the words they have used. [Mc Connel *vs*. Murphy, (1873) L. R. 5 P. C. 203, 218.]

Another principle of construction of mercantile contracts is that "no clause should as far as possible be regarded as superfluous; courts must assume that each clause was inserted by the parties for some good purpose with some definite meaning. This is the usual rule in all mercantile contracts: and merchants are not in the habit of inserting in their contracts stipulations to which they do not attach some value or importance." [Bowes *vs*. Shand, (1877) 2 App. Cas. 455.]

Their Lordships of the Privy Council stated that in respect of mercantile instruments the construction which commended itself to their Lordships is "one that gave a meaning to every part of the document." (Thakurrani *vs*. Rae Jagupal, 31 I. A. 142.)

Uniformity of rules desirable.—It is highly desirable that the law relating to the construction of mercantile contracts and the remedies for the breach should generally proceed on the same principle in all parts of the world; and especially that this uniformity should prevail in respect of a mother country and its dependencies. Similarly courts in India should, as far as possible, proceed on one and the same principle in construing contracts among merchants in different parts of the country. [Dimeck *vs*. Corlett, (1858) 12 Moo. P. C. 199, 299; Remfry Sale of Goods, Tagore Law Lectures.]

Trade usages.—Mercantile contracts are also largely controlled by trade usages, and trade customs,—a trade usage being merely a usage so general and well understood with reference to the business, place and class of persons, that the parties are presumed to have made their contract with tacit reference to it and to have intended to be governed by it in the same way and to the same extent as other like persons in like cases. [Moult *vs*. Halliday, (1898) 1 Q. B. 130.]

Bibliography.—The important text books on the Law of Sale of Goods are constantly re-edited and brought up to date. The reader may most usefully consult the following among others—Benjamin's Sale of Personal Property; Story's Sale of Personal Property; Blackburn's Contract of Sale; Campbell's Law of Sale and Mercantile Agency; Tiffany on Sale of Goods;

Remfry on the Sale of Goods in British India (T. L. L.); Chalmers' Sale of Goods Act (a very clear and concise statement of the Law on the subject); (Chalmers' articles on this title contributed to Halsbury's Law of England, as well as the 11th Edition of the Encyclopedia Britanica may also be usefully consulted); Brown's Sale of Goods Act (Scotland); E. J. Schuster's Principles of German Civil Law (of sales); Beddarride's *Des achats et ventes commercials;* Pothier's *Traite du contract de vente.* The chapters relating to Sale of Goods in the following Books:—Story on Contracts; Chitty on Contracts; Leake on Contracts; Pollock and Mulla's Contract Act and other commentaries on the Indian Contract Act; Smith's Mercantile Law; Willis' Law of Contract of Sale; Cooley's Cases on Sales [in the Hornbook Case Series (American)]; Erwin's Cases on Sales; Burdick's Sale of Personal Property (American); Estrich on Instalment Sales; Isaac on Conditional Sales in Bankruptcy; Mechem on Sales of Personal Property (2 Vols.); Terry's Commentaries on the American Uniform Sales Act; Thompson on Sale Contracts as applied to Bonds; Waite on Sales; Warvelle on Vendors and Purchasers; Dart on Vendors and Purchasers; Williston on Sales (2 Vols.); Woodward's Cases on Sales.

ACT No. III OF 1930.

CONTENTS.

CHAPTER I.

PRELIMINARY.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Application of provisions of Act IX of 1872.

CHAPTER II.

FORMATION OF THE CONTRACT.

Contract of Sale.

4. Sale and agreement to sell.

Formalities of the Contract.

5. Contract of sale how made.

Subject-matter of Contract.

6. Existing or future goods.
7. Goods perishing before making of contract.
8. Goods perishing before sale but after agreement to sell.

The price.

9. Ascertainment of price.
10. Agreement to sell at valuation.

Conditions and Warranties.

11. Stipulations as to time.
12. Condition and warranty.
13. When condition to be treated as warranty.
14. Implied undertaking as to title, etc.
15. Sale by description.
16. Implied conditions as to quality or fitness.
17. Sale by sample.

CHAPTER III.

EFFECTS OF THE CONTRACT.

Transfer of property as between seller and buyer.

18. Goods must be ascertained.
19. Property passes when intended to pass.
20. Specific goods in a deliverable state.
21. Specific goods to be put into a deliverable state.
22. Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price.
23. Sale of unascertained goods and appropriation Delivery to carrier.
24. Goods sent on approval or "on sale or return".
25. Reservation of right of disposal.
26. Risk *prima facie* passes with property.

Transfer of title.

27. Sale by person not the owner.
28. Sale by one of joint owners.
29. Sale by person in possession under voidable contract.
30. Seller or buyer in possession after sale.

CHAPTER IV.

PERFORMANCE OF THE CONTRACT.

31. Duties of seller and buyer.
32. Payment and delivery are concurrent conditions.
33. Delivery.
34. Effect of part delivery.
35. Buyer to apply for delivery.
36. Rules as to delivery.
37. Delivery of wrong quantity.
38. Instalment deliveries.
39. Delivery to carrier or wharfinger.
40. Risk where goods are delivered at distant place.
41. Buyer's right of examining the goods.
42. Acceptance.
43. Buyer not bound to return rejected goods.
44. Liability of buyer for neglecting or refusing delivery of goods.

CHAPTER V.

Rights of unpaid seller against the goods.

45. "Unpaid seller" defined.
46. Unpaid seller's rights.

Unpaid seller's lien.

47. Seller's lien.
48. Part delivery.
49. Termination of lien.

Stoppage in transit.

50. Right of stoppage in transit.
51. Duration of transit.
52. How stoppage in transit is effected.

Transfer by buyer and seller.

53. Effect of sub-sale or pledge by buyer.
54. Sale not generally rescinded by lien or stoppage in transit.

CHAPTER VI.

SUITS FOR BREACH OF THE CONTRACT.

55. Suit for price.
56. Damages for non-acceptance.
57. Damages for non-delivery.
58. Specific performance.
59. Remedy for breach of warranty.
60. Repudiation of contract before due date.
61. Interest by way of damages and special damages.

CHAPTER VII.

MISCELLANEOUS.

62. Exclusion of implied terms and conditions.
63. Reasonable time—a question of fact.
64. Auction Sale.
65. Repeal.
66. Savings.

[15th March, 1930.]

An Act to define and amend the law relating to the sale of goods.

WHEREAS it is expedient to define and amend the law relating to the sale of goods; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called THE INDIAN SALE OF GOODS ACT, 1930. Short title extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1930.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "buyer" means a person who buys or agrees to buy goods;

(2) "delivery" means voluntary transfer of possession from one person to another;

(3) goods are said to be in a "deliverable state" when they are in such state that the buyer would under the contract be bound to take delivery of them;

(4) "document of title to goods" includes a bill of lading, dock-warrant, warehouse keeper's certificate, wharfingers' certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

(5) "fault" means wrongful act or default;

(6) "future goods" means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale;

(7) "goods" means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(8) a person is said to be "insolvent" who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not;

(9) "mercantile agent" means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods;

(10) "price" means the money consideration for a sale of goods;

(11) "property" means the general property in goods, and not merely a special property;

(12) "quality of goods" includes their state or condition;

(13) "seller" means a person who sells or agrees to sell goods;

(14) "specific goods" means goods identified and agreed upon at the time a contract of sale is made; and

(15) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, have the meanings assigned to them in that Act.

Application of provisions of Act IX of 1872.

3. The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods.

CHAPTER II.

FORMATION OF THE CONTRACT.

Contract of Sale.

Sale and agreement to sell.

4. (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods

is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Formalities of the Contract.

Contract of sale how made.

5. (1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

Subject-matter of Contract.

Existing or future goods.

6. (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods perishing before making of contract.

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

Goods perishing before sale but after agreement to sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

The Price.

Ascertainment of price.

9. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable

price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation.

10. (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and Warranties.

Stipulations as to time.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

Condition and warranty.

12. (1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

When condition to be treated as warranty.

13. (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods, the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Implied undertaking as to title, etc.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention there is—

(*a*) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(*b*) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(*c*) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

Sale by description.

15. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied conditions as to quality or fitness.

16. Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:—

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(2) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality:

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(4) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

Sale by sample.

17. (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(2) In the case of a contract for sale by sample there is an implied condition—

(*a*) that the bulk shall correspond with the sample in quality;

(*b*) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(*c*) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

CHAPTER III.

Effects of the Contract.

Transfer of property as between seller and buyer.

Goods must be ascertained.

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass.

19. (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

Specific goods in a deliverable state.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed.

Specific goods to be put into a deliverable state.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

Specific goods in a deliverable state,

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for

the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

when the seller has to do anything thereto in order to ascertain price

Sale of unascertained goods and appropriation.

23. (1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state or unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

Delivery to carrier.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

Goods sent on approval or "on sale or return".

24. When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer—

(a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

Reservation of right of disposal.

25. (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

Risk *prima facie* passes with property.

26. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

Transfer of title.

Sale by person not the owner.

27. Subject to the provisions of this Act and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorized by the owner of the goods to make the same; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners.

28. If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by person in possession under voidable contract.

29. When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19-A of the Indian Contract Act, 1872, but the contract has not been rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Seller or buyer in possession after sale.

30. (1) Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery

or transfer were expressly authorizd by the owner of the goods to make the same.

(2) Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

CHAPTER IV.

PERFORMANCE OF THE CONTRACT.

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale. *Duties of seller and buyer.*

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods. *Payment and delivery are concurrent conditions.*

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorized to hold them on his behalf. *Delivery.*

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder. *Effect of part delivery.*

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery. *Buyer to apply for delivery.*

36. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or, if not then in existence, at the place at which they are manufactured or produced. *Rules as to delivery.*

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of wrong quantity.

37. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

Instalment deliveries.

38. (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

Delivery to carrier or wharfinger.

39. (1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is *prima facie* deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

Risk where goods are delivered at distant place.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Buyer's right of examining the goods.

41. (1) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance.

42. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Buyer no bound to return rejected goods.

43. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods.

44. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

CHAPTER V.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

"Unpaid seller" defined.

45. (1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Act—

(*a*) when the whole of the price has not been paid or tendered;

(*b*) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's rights.

46. (1) Subject to the provisions of this Act and of any law for the time being in force, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—

(*a*) a lien on the goods for the price while he is in possession of them;

(*b*) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;

(*c*) a right of re-sale as limited by this Act.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

Unpaid seller's lien.

Seller's lien.

47. (1) Subject to the provisions of this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:—

(*a*) where the goods have been sold without any stipulation as to credit;

(*b*) where the goods have been sold on credit, but the term of credit has expired;

(c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

Part delivery.

48. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

Termination of lien.

49. (1) The unpaid seller of goods loses his lien thereon—

(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods;

(c) by waiver thereof.

(2) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

Stoppage in transit.

Right of stoppage in transit.

50. Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

Duration of transit.

51. (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

How stoppage in transit is effected.

52. (1) The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller.

Transfer by buyer and seller.

Effect of sub-sale or pledge by buyer.

53. (1) Subject to the provisions of this Act, the unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto:

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

54. (1) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or stoppage in transit.

Sale not generally rescinded by lien or stoppage in transit.

(2) Where the goods are of a perishable nature, or where the unpaid seller who has exercised his right of lien or stoppage in transit gives notice to the buyer of his intention to re-sell, the unpaid seller may, if the buyer does not within a reasonable time pay or tender the price, re-sell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the re-sale.

(3) Where an unpaid seller who has exercised his right of lien or stoppage in transit re-sells the goods, the buyer acquired a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default, re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

CHAPTER VI.

SUITS FOR BREACH OF THE CONTRACT.

55. (1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

Suit for price.

(2) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

56. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

Damages for non-acceptance.

57. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.

Damages for non-delivery.

58. Subject to the provisions of Chapter II of the Specific Relief Act, 1877, in any suit for breach of contract to deliver specific or ascertained goods, the Court may, if it thinks fit, on

Specific performance.

the application of the plaintiff, by its decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the decree.

Remedy for breach of warranty.

59. (1) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

(*a*) set up against the seller the breach of warranty in diminution or extinction of the price; or

(*b*) sue the seller for damages for breach of warranty.

(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

Repudiation of contract before due date.

60. Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

Interest by way of damages and special damages.

61. (1) Nothing in this Act shall affect the right of the seller or the buyer to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed.

(2) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price—

(*a*) to the seller in a suit by him for the amount of the price—from the date of the tender of the goods or from the date on which the price was payable;

(*b*) to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—from the date on which the payment was made.

CHAPTER VII.

MISCELLANEOUS.

Exclusion of implied terms and conditions.

62. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

63. Where in this Act any reference is made to a reasonable time, the question what is a reasonable time is a question of fact. Reasonable time a question of fact.

64. In the case of a sale by auction— Auction sale.

(1) Where goods are put up for sale in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale;

(2) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;

(3) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;

(4) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;

(5) the sale may be notified to be subject to a reserved or upset price;

(6) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

65. Chapter VII of the Indian Contract Act, 1872, is hereby repealed. Repeal.

66. (1) Nothing in this Act or in any repeal effected thereby shall affect or be deemed to affect— Savings.

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to the sale of goods which is not expressly repealed by this Act, or

(*e*) any rule of law not inconsistent with this Act.

(2) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

THE INDIAN CONTRACT (AMENDMENT) ACT, 1930.

ACT No. IV OF 1930.

PREFATORY NOTE.—The following extracts from the Statement of Objects and Reasons would show the circumstances that led to the passing of this Act:—

"The object of this Bill is to give effect to the recommendation of the Special Committee, appointed by the Government of India to examine and draft the Indian Sale of Goods Bill, that section 178 of the Indian Contract Act, 1872, should be amended so as to make it consistent with the amendment proposed by the Committee in section 108. Both the sections are cognate and are based on the same principle; and there has been considerable conflict of decisions regarding their scope. The Special Committee has proposed to remove this conflict in section 108 by restricting its provisions to sales by persons who are in possession of the subject-matter of the sale as mercantile agents only, and the present Bill amends section 178 of the Indian Contract Act, 1872, on the same lines."—(*Statement of Objects and Reasons.*)

The following is the Report of the Select Committee on the Bill:—

We, the undersigned members of the Select Committee to which the Bill further to amend the Indian Contract Act, 1872, for certain purposes was referred, have considered the Bill and have the honour to submit this report with the Bill as amended by us annexed hereto.

2. This Bill is supplementary to the Indian Sale of Goods Bill. On the lines of the amendment made in clause 27 of that Bill we have substituted the words "a mercantile agent" for the words "where an agent . . . to security of goods". We have also substituted the words "documents of title to goods" for the words "bill of lading, dock order . . . thereby represented". As the expressions "mercantile agent" and "documents of title" are not defined in the Indian Contract Act, 1872, in which this section will remain, we have added an Explanation stating that those expressions will have the meanings assigned to them in the Indian Sale of Goods Act, 1930.

For the reasons stated in the note to clause 29 in our report on the Indian Sale of Goods Bill, we have inserted a new section as 178-A to provide for the case of a pledge by a person in possession under a voidable contract.

3. We have also made a few alterations of a purely drafting nature.

[15th March, 1930.]

An Act to amend the Indian Contract Act, 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called THE INDIAN CONTRACT (AMENDMENT) ACT, 1930.

(2) It shall come into force on the first day of July 1930.

2. For section 178 of the Indian Contract Act, 1872, the following sections shall be substituted, namely:— Amendment of section 178, Act IX of 1872.

"178. Where a mercantile agent is, with the consent of the owner, in possession of goods or the documents of title to goods, any pledge made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorized by the owner of the goods to make the same; provided that the pawnee acts in good faith and has not at the time of the pledge notice that the pawnor has not authority to pledge. Pledge by mercantile agent.

Explanation.—In this section, the expressions "mercantile agent" and "documents of title" shall have the meanings assigned to them in the Indian Sale of Goods Act, 1930.

178-A. When the pawnor has obtained possession of the goods pledged by him under a contract voidable under section 19 or section 19-A, but the contract has not been rescinded at the time of the pledge, the pawnee acquires a good title to the goods, provided he acts in good faith and without notice of the pawnor's defect of title." Pledge by person in possession under voidable contract

---

THE TRANSFER OF PROPERTY (AMENDMENT) ACT, 1930.

ACT No. V OF 1930.

PREFATORY NOTE:—The following is the Statement of Objects and Reasons annexed to the Bill:—

"The formal amendments contained in this Bill are designed to carry out the intentions of *Explanation I* contained in section 4 of the Transfer of Property (Amendment) Act, 1929. The difficulties sought to be met by the latter part of the body of the Explanation are not confined to cases where registration is effected under sub-section (2) of section 30 of the Indian Registration Act, 1908, but they are also encountered when an instrument relating to scattered properties is registered in the ordinary manner. Further, it is possible, under the present Explanation, that a subsequent transferee may make a genuine search in the offices of all the sub-districts in which the property he seeks to acquire is situated, and find no record of a transfer; but may still find himself saddled with notice of a transfer by reason of a memorandum relating to some other property, included in a previous transfer along with the property he is interested in, having been filed in some distant sub-district. The Bill is intended to remove all these anamolies."

[15th *March*, 1930.]

An Act to amend the Transfer of Property (Amendment) Act, 1929, *for a certain purpose.*

WHEREAS it is expedient to amend the Transfer of Property (Amendment) Act, 1929, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called THE TRANSFER OF PROPERTY (AMENDMENT) ACT, 1930.

Amendment of section 4, Act XX of 1929.

2. In section 4 of the Transfer of Property (Amendment) Act, 1929,—

(*i*) in *Explanation I*, for the words "if the instrument has been registered under sub-section (2) of section 30 of the Indian Registration Act, 1908, from the earliest date on which a memorandum thereof has been filed by any Sub-Registrar under section 66 of that Act" the following words shall be substituted, namely:—

"where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of section 30 of the Indian Registration Act, 1908, from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated", and

(*ii*) in proviso (2) to *Explanation I*, after the word "instrument" the words "or memorandum" shall be inserted.

THE PRISONS (AMENDMENT) ACT, 1930.

ACT NO. VI OF 1930.

PREFATORY NOTE:—The following extracts from the Statement of Objects and Reasons would show the circumstances that led to the passing of this enactment:—

Section 27 (2) of the Prisons Act, 1894 (IX of 1894), provides that male prisoners under the age of 18 should be separated altogether from the other prisoners, and that those of them who have arrived at the age of puberty should be separated from those who have not. The effect of this provision is the creation of four distinct groups under the age of 18, as it applies both to under-trial and to convicted prisoners. In 1923 the maximum age-limit for adolescents was fixed by executive order at 18 and the principle was accepted that arrangement should be made to separate adolescents guilty of grave crime from other adolescents. The result of these orders was divided into two. In 1928 on the recommendation of the Second Conference of Inspectors-General of Prisons the age-limit for an adolescent prisoner was raised to 21 years, resulting in three more groups between the ages of 18 and 21. It has been found impossible in practice to effect the segregation

of so many groups of prisoners in each jail and it is therefore proposed that section 27 (2) of the Prisons Act should be amended so as to substitute the word "twenty-one" for the word "eighteen". All prisoners up to the age of 21 will then be treated as one class and separated into the number of groups now prescribed for prisoners under the age of 18.—(*Statement of Objects and Reasons.*)

[15*th March*, 1930.]

An Act further to amend the Prisons Act, 1894, *for a certain purpose.*

WHEREAS it is expedient further to amend the Prisons Act, 1894, for the purpose hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called THE PRISONS (AMENDMENT) ACT, 1930. Short title.

2. In clause (2) of section 27 of the Prisons Act, 1894, for the word "eighteen" the word "twenty-one" shall be substituted. Amendment of section 27, Act IX of 1894.

THE INDIAN PATENTS AND DESIGNS (AMENDMENT) ACT, 1930.

ACT NO. VII OF 1930.

PREFATORY NOTE:—The following is the Report of the Select Committee on the Bill:—

Clause 3 (*a*) (*iii*).—In the new proviso we have substituted the word "other" for the word "additional" to make the meaning clear.

We have also made an amendment of substance, designed to avoid hardship to applicants. Unless the Controller has power to fix later dates, as proposed by us, it may happen that the time for acceptance of additional applications prescribed in sub-section (4) of section 5 will be over before these applications can be properly examined and accepted. We have further provided that the date borne by the application shall for all purposes be deemed to be the date on which it was made. The amendment follows the English practice. At the same time, we consider it advisable that the Controller's discretion in fixing dates should be curtailed, and we recommend that a rule should be made under section 77 restricting the fixing of the date of an additional application to within one month of the date of the original application. If this is found to be insufficient in practice, the period may be extended.

Clause 3 (*b*).—It has been held that an application under section 5 (4) for extension of time made after the expiry of twelve months from the date of the application cannot be granted inasmuch as the application will already have become void. We understand that it is convenient from the administrative point of view that such applications should be granted, and this sub-clause is designed to permit of this.

Clause 5.—We felt that there was substance in the criticisms of clause 5 on the ground of vagueness, and have preferred simply to substitute an extension from three to four months for the more intricate provision relating to the time requisite for obtaining copies of the specification. We are of

opinion that that time is fairly represented by one month, but hope that the operation of this new provision will be carefully watched with a view to ascertaining its adequacy.

Clause 6 (1).—We have introduced some drafting amendments designed to indicate that a direction by the Controller is not a "decision" such as is referred to in section 9 (3) of the Act.

Clause 6 (2) (*ii*).—We have made an addition necessitated by the fact that various provisions of section 10 of the Act allow various periods for sealing a patent.

Clause 9 (*c*) is designed to achieve, *mutatis mutandis*, an object similar to that mentioned above in connexion with clause 3 (*b*).

Clause 15.—Opinions received on proposed section 21 disclose some apprehension that irresponsible persons may be permitted to issue written authorisations on behalf of Government departments. We have preferred to revert to the precise wording of the proviso to existing section 21, which does not appear to have caused any inconvenience in practice.

We have also, in deference to opinions received, provided in sub-sections (2) and (3) of proposed section 21 that notice should be given to the inventor or patentee.

The other changes in this clause are of a drafting nature.

Clauses 24 *and* 27 (*c*).—We do not consider that the interposition of the Governor-General in Council between the Controller and the High Court in the matter of references under proposed section 51-A (2) and proposed sub-section (3) of existing section 64 serves any useful purpose. We have therefore omitted this provision in each case.

Clause 28-*A*.—We have extended the period of limitation for appeals under section 70 from two to three months. The shorter period has in practice been found too short for appeals in India and *a fortiori* for overseas appeals.

2. Our attention has been directed by the opinions received to the fact that section 7 of the Statute 7 Edward VII, c. 29 contains more elaborate provisions for preliminary examination of an application than those contained in the Indian Act. We have reason to believe that an amplification of the Indian Act on the lines of the British Statute would be conducive to the interests of applicants, who, in existing conditions, possibly suffer loss by being encouraged to expend money on inventions when applications for patents in respect of them have not been summarily rejected. We desire to place on record our opinion that this question deserves careful examination by Government.

3. Opinions received also disclose a considerable volume of opinion in favour of registration of trade marks. We understand that the absence of such registration is one of the reasons which prevent India participating in the International Convention for the Protection of Industrial Property and we have reason to believe that India's want of participation in this Convention affects prejudicially the interests of Indian inventors in foreign countries in certain matters. We feel, however, that this subject is not strictly germane to the present Bill and content ourselves with the suggestion that it be examined by Government.—(*Report of the Select Committee.*)

[16*th March*, 1930.]

An Act further to amend the Indian Patents and Designs Act, 1911, *for certain purposes.*

WHEREAS it is expedient further to amend the Indian Patents and Designs Act, 1911, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title and commencement

1. (1) This Act may be called THE INDIAN PATENTS AND DESIGNS (AMENDMENT) ACT, 1930.

(2) It shall come into force on the 1st day of July 1930.

Amendment of section 2, Act II of 1911.

2. In section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act),—

(*a*) for clause (5) the following clause shall be substituted, namely:—

"(5) 'design' means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 478, or property mark as defined in section 479, of the Indian Penal Code:";

(*b*) for clause (12) the following clause shall be substituted, namely:—

"(12) 'patentee' means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent;"; and

(*c*) in clause (14), for the words "new and original" the words "new or original" shall be substituted.

Amendment of section 5, Act II of 1911.

3. In section 5 of the said Act,—

(*a*) in sub-section (1),—

(*i*) in clause (*b*), the words "or relate to more than one invention" shall be omitted;

(*ii*) after clause (*e*) the following shall be inserted, namely:—

"or

(*f*) the specification relates to more than one invention,"; and

(*iii*) the following proviso shall be added to the sub-section, namely:—

"Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh appli-

cation shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction."; and

(*b*) in sub-section (4), for the proviso the following proviso shall be substituted, namely:—

" Provided that where, before, or within three months after, the expiration of the said period of twelve months, a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during, but not beyond, the period of extension so requested."

Omission of section 8 from Act II of 1911.

4. Section 8 of the said Act shall be omitted.

Amendment of section 9, Act II of 1911.

5. In sub-section (1) of section 9 of the said Act, for the word "three" the word "four" shall be substituted.

Amendment of section 10, Act II of 1911.

6. (1) After sub-section (1) of section 10 of the said Act the following sub-section shall be inserted, namely:—

"(1-*A*) Notwithstanding anything contained in sub-section (1), where—

(*a*) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(*b*) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be:

Provided that—

(*i*) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(*ii*) an appeal from any such direction shall lie to the Governor-General in Council."

(2) In sub-section (2) of the same section,—

(*i*) in clause (*b*) of the proviso, the words "or by a reference under section 8," shall be omitted; and

(*ii*) in clause (*d*), for the words "in consequence of the neglect or failure of the applicant to pay any fee" the words "for any reason" shall be substituted; after the words "allowed by"

the words "any of the foregoing provisions of" shall be inserted; and for the words "to such an extent as may be prescribed" the words "to the extent applied for but not exceeding three months" shall be substituted.

Amendment of section 11, Act II of 1911.

7. In section 11 of the said Act, for the words "publication of the specification" the words "advertisement of the acceptance of the application" shall be substituted.

Amendment of section 13 Act II of 1911.

8. For sub-section (2) of section 13 of the said Act the following sub-section shall be substituted, namely:—

"(2) Where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 9 on the ground stated in clause (*a*) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

Amendment of section 14, Act II of 1911.

9. In section 14 of the said Act,—

(*a*) in sub-section (1), for the word "fourteen" the word "sixteen" shall be substituted;

(*b*) after the same sub-section the following sub-sections shall be inserted, namely:—

"(1-*A*) Any patent the original term of which had not expired on or before the 1st day of July, 1930, shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any licence existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1-*B*) Where any party to a contract with the patentee or any other person entered into before the 1st day of January, 1930, is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne."; and

(*c*) in sub-section (2), for the proviso the following proviso shall be substituted, namely:—

"Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceed-

ing three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for."

Amendment of section 15, Act II of 1911.

10. In section 15 of the said Act,—

(a) in sub-section (1), the words "after advertising in the prescribed manner his intention to do so," shall be omitted; and after the words "prescribed fee" the following shall be added, namely:—

" and must be advertised by the patentee within the prescribed time and in the prescribed manner";

(b) in sub-section (2), after the word "may" the words "within such time as may be prescribed and on payment of the prescribed fee," shall be inserted; and

(c) in sub-section (6), for the words "seven" and "fourteen" the words "five" and "ten" shall be substituted, respectively.

Insertion of new section 15-A in Act II of 1911.

11. After section 15 of the said Act the following section shall be inserted, namely:—

Patents of addition.

"15-A. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal:

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

12. In section 18 of the said Act, after the word "disclaimer" the words "correction or explanation" shall be inserted. Amendment of section 18, Act II of 1911.

13. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation" the words "before the date of the decision allowing the amendment" shall be substituted. Amendment of section 19, Act II of 1911.

14. In sub-section (4) of section 20 of the said Act, the words "and unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent" shall be omitted. Amendment of section 20, Act II of 1911.

15. For section 21 of the said Act the following sections shall be substituted, namely:— Substitution of new sections for section 21, Act II of 1911.

"21. (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against His Majesty the King as it has against a subject. Patent to bind Crown.

(2) The officers or authorities administering any department of the service of His Majesty may, by themselves or by such of their agents, contractors or others as may be authorized in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor-General in Council, between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the Crown.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of His Majesty (such invention not having been communicated directly or indirectly by the applicant or patentee), such officers or authorities, or such of their agents, contractors, or others, as may be authorized in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Crown, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the

document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Crown or from such officers or authorities in respect of such patent:

Provided that, if the inventor or patentee is a Government servant and the subject-matter of the invention is certified by the Governor-General in Council or Local Government to be connected with work done in the course of such service, any such dispute shall be settled by the Governor-General in Council after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Crown under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Crown.

(6) Nothing in this section shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

Assignment of patent to the Secretary of State for India in Council.

21-A. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for India in Council on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Secretary of State for India in Council may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for India in Council

on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the Secretary of State for India in Council.

(3) Where any such assignment has been made, the Governor-General in Council may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Governor-General in Council so certify, the application and specifications, with the drawings (if any) and any amendment of the specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the Governor-General in Council.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller, and shall not be opened save under the authority of an order of the Governor-General in Council.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by the Governor-General in Council to receive it, and shall, if returned to the Controller, be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Governor-General in Council.

(8) Where the Governor-General in Council certifies as aforesaid after an application for a patent has been left at the Patent Office but before the publication of the specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Governor-General in Council.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Governor-General in Council as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Governor-General in Council may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State for India in Council or the Governor-General in Council or to any person or persons authorized by the Secretary of State for India in Council or the Governor-General in Council to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same."

Amendment of section 22, Act II of 1911.

16. In section 22 of the said Act,—

(a) in sub-section (1) for the words "the reasonable requirements of the public with respect to a patented invention have not been satisfied" the words "the demand for a patented article in British India is not being met to an adequate extent and on reasonable terms" shall be substituted;

(b) in sub-section (4), for the words "the reasonable requirements of the public with reference to the patented invention have not been satisfied" the words "the demand for the patented article in British India is not being met to an adequate extent and on reasonable terms" shall be substituted; and for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(c) in sub-section (5),—

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a), the words "or the demand for the patented article or the article produced by the patented process is not reasonably met" shall be omitted; and

(iii) in clause (b), the words "before or after the commencement of this Act" shall be omitted; and

(d) sub-section (6) shall be omitted.

Amendment of section 23, Act II of 1911.

17. In section 23 of the said Act,—

(a) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section" shall be substituted; and

(b) in sub-section (2), after the words "may make an order" the letter and brackets "(a)" shall be inserted, and after clause (ii) the following shall be added, namely:—

"or

(b) ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Governor-General in Council may direct."

18. After section 23 of the said Act the following section shall be inserted, namely:— Insertion of new section 23-A in Act II of 1911.

"23-A. An order of the High Court under section 22 or of the Governor-General in Council under section 22 or section 23, directing the grant of any licence shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties." Operation of order under section 22 or section 23.

19. In clause (g) of sub-section (1) of section 26 of the said Act, for the words "a part", in both places where they occur, the words "the whole or a part" shall be substituted. Amendment of section 26, Act II of 1911.

20. In sub-section (1) of section 35 of the said Act, for the words "either of" the word "all" shall be substituted. Amendment of section 35, Act II of 1911.

21. After section 35 of the said Act the following section shall be inserted, namely:— Insertion of new section 35-A in Act II of 1911.

"35-A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there." Grant of relief in respect of particular claims.

22. In section 36 of the said Act,— Amendment of section 36, Act II of 1911.

(1) for the words "to be the patentee of an invention" the words "to have an interest in a patent" shall be substituted;

(2) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted; and

(3) for the proviso the following shall be substituted, namely:—

"Provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence."

Amendment of section 44, Act II of 1911.

23. In section 44 of the said Act,—

(1) in clause (*a*), for the words "new and original design" the words "new or original design" shall be substituted; and

(2) after clause (*b*) the following proviso shall be added, namely:—

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration."

Insertion of new sections 51-A and 51-B in Act II of 1911.

24. After section 51 of the said Act the following sections shall be inserted, namely:—

Cancellation of registration.

"51-A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

(*a*) at any time after the registration of the design, to the High Court on any of the following grounds, namely:—

(*i*) that the design has been previously registered in British India; or

(*ii*) that it has been published in British India prior to the date of registration; or

(*iii*) that the design is not a new or original design; or

(*b*) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (*i*) and (*ii*) of clause (*a*).

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of designs to bind the Crown.

51-B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs."

Amendment of section 62, Act II of 1911.

25. In section 62 of the said Act, clause (*b*) shall be omitted.

Amendment of section 63, Act II of 1911.

26. In section 63 of the said Act,—

(*a*) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely:—

(1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction,

register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest."; and

(b) after sub-section (3) the following sub-section shall be added, namely:—

"(4) Except in the case of an application made under section 64, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

27. In section 64 of the said Act,— Amendment of section 64 Act II of 1911.

(a) in sub-section (1), for the words "A High Court" the words "The Controller" and for the words "as it may think fit" the words "as he thinks fit and rectify the register accordingly" shall be substituted, respectively;

(b) in sub-section (2), for the word "Court" the word "Controller" shall be substituted;

(c) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred."; and

(d) for sub-section (5) the following sub-section shall be substituted, namely:—

"(5) Nothing in this section shall be deemed to empower the Controller—

(a) to rectify the register of patents or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(b) to make any such order cancelling the registration of a design as is provided for in section 51-A."

Amendment of section 69, Act II of 1911.

28. Section 69 of the said Act shall be re-numbered as sub-section (1) of that section, and to that section as so re-numbered the following sub-section shall be added, namely:—

"(2) An appeal shall lie to the Governor-General in Council from an order of the Controller under this section."

Amendment of section 70, Act II of 1911.

29. In section 70 of the said Act, for the word "two" in both places where it occurs, the word "three" shall be substituted.

Insertion of new section 74-A in Act II of 1911.

30. After section 74 of the said Act the following section shall be inserted, namely:—

Security for costs.

"74-A. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in British India, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal."

Amendment of section 77, Act II of 1911.

31. In section 77 of the said Act,—

(1) after clause (e) of sub-section (1) the following clauses shall be inserted, namely:—

"(ee) for the manner in which fees leviable under this Act may be paid;

(eee) for ensuring secrecy with respect to patents to which section 21-A applies;"; and

(2) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2-A) Nothing in sub-section (2) shall apply in the case of rules made for the purpose specified in clause (eee) of sub-section (1); and any such rules may modify any of the provisions of this Act so far as may be necessary for that purpose."

Amendment of section 78-A, Act II of 1911.

32. In section 78-A of the said Act,—

(1) in clause (a) of the proviso to sub-section (1), for the word "four" the word "six" shall be substituted; and

(2) in sub-section (4), after the words "His Majesty's dominions", where they first occur, the words "or of any State in India", and after those words where they occur for the second time, the words "or in that State, as the case may be," shall be inserted.

33. In the Schedule to the said Act, in the entry specifying the fee payable before the expiration of the 8th year from the date of a patent, for the figures "50" the figures "100" shall be substituted, and for the last five entries the following shall be substituted, namely:— Amendment of the schedule to Act II of 1911.

	Rs.
"Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that the fees for two or more years may be paid in advance.	
On application to extend the term of a patent ..	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design ..	3"

THE REPEALING AND AMENDING ACT, 1930.

ACT No. VIII OF 1930.

PREFATORY NOTE:—The following is the Statement of Objects and Reasons annexed to the Bill:—

The object of the Bill is to make some necessary amendments of a formal nature in certain enactments and to repeal certain spent or useless matter in the Statute-book.

The reasons for the proposed amendments and repeals are explained as follows:—

(1) *The Indian Penal Code.*—The amendment is consequential on the insertion of the words "Chapter V-A" in section 40 by Act VIII of 1913.

(2) *The Parsi Marriage and Divorce Act,* 1865.—The object is to provide in the form mentioned in section 6 an extra column for the signatures of the contracting parties which are required by that section to be entered therein.

(3) *The Burma Municipal Act,* 1898.—The amendment is designed to correct an obvious error introduced into section 46 by Act XXXVIII of 1920.

(4) *The Indian Stamp Act,* 1899.—The amendment is partly formal and partly consequential on U. P. Act XII of 1922.

(5) *The Indian Extradition Act,* 1903.—The amendment is consequential on the decision that in future the forces of Indian

States should be styled "Indian States Forces" instead of "Indian State Forces".

(6) *The Indian Limitation Act*, 1908.—This amendment is consequential on the re-enactment in Act XXXIX of 1925 of the provisions referred to in article 43 of the First Schedule to Act IX of 1908.

The second amendment is purely formal.

(7) (a) *The Indian Army Act*, 1911.

(b) *The Indian Factories Act*, 1911.

The amendments are formal only.

(8) *The Benares Hindu University Act*, 1915.—The change is merely grammatical.

(9) *The Cantonments Act*, 1924.—

(a) The amendment of section 95 is designed to supply an obvious omission.

(b) The amendments of sections 150, 196, 197 and 231 are merely grammatical.

(c) An obvious misprint in section 156 is corrected.

(10) (a) *The Bengal Pilot Service (Centralisation of Administration) Act*, 1929.

(b) *The Child Marriage Restraint Act*, 1928.

The amendments are purely formal.

(11) *The Indian Arms Act*, 1878.—The repeal is consequential on the repeal of Regulation IX of 1874 by Regulation I of 1916.

(12) *The Elephants' Preservation Act*, 1879.—The provision repealed has its counterpart in sections 26 (1) (j) and 32 (j) of Act XVI of 1927 and has therefore become otiose.

(13) *The Punjab University Act*, 1882.—The repeal is consequential on the repeal of section 18 by Act VIII of 1904.

(14) *The Petroleum (Customs-duty) Act*, 1888.—The Act is spent.

(15) *The Indian Limitation Act*, 1908.—Sections 30 and 31 and the Second Schedule are obviously spent.

(16) *The Provincial Insolvency Act*, 1920—The repeal is consequential on the repeal of Act VI of 1900 by Act XI of 1923.

(17) *The Auxiliary Force Act*, 1920.—The repeal is consequential on the repeal of clause (d) of section 4 by Act X of 1928.

(18) *The Indian Income-tax (Amendment) Act*, 1923.—Section 3 is already virtually repealed by the repeal of section 68 of Act XI of 1922 by Act XII of 1927.

(19) *The Indian Penal Code (Amendment) Act*, 1924.—The Act was virtually repealed by the amendments effected in sections 372 and 373 of the Indian Penal Code by Act XVIII of 1924.

(20) (a) *The Indian Finance Act*, 1926.

(b) *The Indian Finance Act*, 1927.

(c) *The Indian Finance Act*, 1928.

The provisions repealed are spent.

(21) *The Repealing and Amending Act*, 1928.—The repealing provisions of this Act are themselves repealed according to current practice in order to abbreviate the Statute-book.

[16th *March*, 1930.]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that the enactments specified in the Second Schedule, which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specified repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE REPEALING AND AMENDING ACT, 1930.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(*See section* 2.)

Year. (1)	No. (2)	Short title. (3)	Amendments. (4)
1860	XLV	The Indian Penal Code.	In section 40, for the word "chapter" where it first occurs the word "chapters" shall be substituted.
1865	VX	The Parsi Marrige and Divorce Act, 1865.	In the Schedule, for the last two columns the following columns shall be substituted, namely:— " Signatures of the contracting parties. | Signatures of the fathers or guardians of contracting parties under twenty-one years of age. | Signatures of two witnesses."
1898	Burma Act III	The Burma Municipal Act, 1898.	In clause (*i*) of division (A) of sub-section (1) of section 46, for the word "with" the word "without" shall be substituted.
1899	II	The Indian Stamp Act, 1899.	In sub-clause (*a*) of clause (8) of section 2, for the words "respectively under the administration of the Lieutenant-Governors of Bihar and Orissa and the North-Western Provinces and the Chief Commissioner of Oudh" the words "under the administration of the Local Government of Bihar and Orissa" shall be substituted.
1903	XV	The Indian Extradition Act, 1903.	In the First Schedule, for the words "Indian State Forces" the words "Indian States Forces" shall be substituted.
1908	IX	The Indian Limitation Act. 1908.	In Article 43 of the First Schedule, for the words and figures "Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140" the words and figures "Indian Succession Act, 1925, section 360 or section 361" shall be substituted. In Article 151 of the First Schedule, for the words "Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma" the words "Madras, Bombay, Lahore and Rangoon" shall be substituted.

Year. (1)	No. (2)	Short title. (3)	Amendments. (4)
1911	VIII	The Indian Army Act, 1911.	In sub-section (2) of section 113, at the end of clause (*i*) the word "and" shall be omitted, and at the end of clause (*ii*) the word "and" shall be added.
1911	XII	The Indian Factories Act, 1911.	In sub-section (1) of section 36, at the end of clause (*c*) the word "and" shall be omitted, and at the end of clause (*d*) the word "and" shall be added.
1915	XVI	The Benares Hindu University Act, 1915.	In sub-section (5) of section 17, and in sub-section (5) of section 18, after the word "remit" the word "them" shall be inserted.
1924	II	The Cantonments Act, 1924.	In sub-section (1) of section 95, after the words "any sum is due" the words "or is about to become due" shall be inserted. In section 150, for the word "Whoever" the words "Any person" shall be substituted. In section 156, for the word "their" the word "other" shall be substituted. In section 196, for the words "to an additional fine" the words "with an additional fine" shall be substituted. In section 197, for the word "making" the word "working" shall be substituted. In section 231, before the word "executed" the words "installed or" shall be inserted.
1929	XI	The Bengal Pilot Service (Centralisation of Administration) Act, 1929.	In sub-section (1) of section 2, for the words "or the words" the words "'Lieutenant-Governor' or" shall be substituted.
1929	XIX	The Child Marriage Restraint Act, 1928.	In sub-section (1) of section 1, for the figures "1928" the figures "1929" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(*See section* 3.)

Year. (1)	No. (2)	Short title. (3)	Extent of Repeal. (4)
1878	XI	The Indian Arms Act, 1878.	In the First Schedule, the entry relating to Regulation IX of 1874.
1879	VI	The Elephants' Preservation Act, 1879.	Section 2.

Year. (1)	No. (2)	Short title. (3)	Extent of Repeal. (4)
1882	XIX	The Punjab University Act, 1882.	In section 20, the words and figures "under section 18".
1888	II	The Petroleum (Customs-duty) Act, 1888.	So much as has not been repealed.
1908	IX	The Indian Limitation Act, 1908.	Sections 30 and 31 and the Second Schedule.
1920	V	The Provincial Insolvency Act, 1920.	In clause (*a*) of section 82, the words and figures "or section 8 of the Lower Burma Courts Act, 1900,".
1920	XLIX	The Auxiliary Force Act, 1920.	In clause (*c*) of sub-section (2) of section 30, the words "and other persons who are not British subjects.".
1923	XV	The Indian Income-tax (Amendment) Act, 1923.	Section 3.
1924	V	The Indian Penal Code (Amendment) Act, 1924.	The whole.
1926	XIX	The Indian Finance Act, 1926.	Section 6 and Schedules I and II.
1927	V	The Indian Finance Act, 1927.	Sub-section (3) of section 1, sections 2, 3, 6 and 7, and Schedules I and III.
1928	V	The Indian Finance Act, 1928.	The whole.
1928	XVIII	The Repealing and Amending Act, 1928.	Sections 3 and 4 and the Second Schedule.

THE CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) ACT, 1930.

ACT NO. IX OF 1930.

PREFATORY NOTE:—The following is the Statement of Objects and Reasons attached to the Bill:—

"The Cantonments (House-Accommodation) Act, 1923, was intended to continue the powers possessed by the military authorities to appropriate, where the need arose, such houses in cantonments as were originally intended, and were suitable for occupation by military officers or messes; and to safeguard the rights of house-owners, and to secure for them fair rents and equitable conditions of tenancy, when their houses were appropriated.

The working of the Act during the past five years has shown that some of its provisions are obscure, and others are defective with reference to one or other of the two main intentions stated above. The present Bill aims at removing these obscurities and defects.

Further, as the law stands at present, the question of the rent of, and repairs to, a building appropriated under the Act may be referred on appeal

first to a Committee of Arbitration and then to the Civil Court. The Committee of Arbitration is composed of a Chairman (who must be a person neither in the service of Government or the Cantonment Authority, nor having any interest in house property liable to appropriation under the Act), two persons nominated by the Officer Commanding the Station, and two local residents nominated by the owner. Difficulties have been experienced in obtaining a Chairman and non-official members with the requisite qualifications to undertake these thankless and, in many cases, laborious honorary duties, and when a Committee has been appointed, it is frequently unable to reach a decision within a short time. In order to obviate the inconveniences and delays of the present system, it is proposed to abolish the Arbitration Committees and provide for the reference of the abovementioned matters to the Civil Courts direct.

The opportunity has been taken at the same time to introduce certain other improvements of minor importance. Notes on the clauses are attached.

NOTES ON CLAUSES.

Clause 2 (*a*).—Owing to the proposed abolition of Arbitration Committees, the words "Cantonment Authority" will disappear from the Act and a definition is no longer required.

Clause 2 (*b*).—The proposed addition to the definition of "Officer Commanding the Station" brings it into line with the definiti n in section 2 (*ix*) of the Cantonments Act, 1924. Thus the Officer Commanding the District can in no case be called upon to perform the duties of the Officer Commanding the Station and remains in all cases the administrative appellate authority under the Act.

Clause 2 (*c*).—The revisional jurisdiction under section 2 (2) of the Act is not magisterial in character. It is exercised by the officer in his administrative capacity and it is therefore preferable to call him "the Collector".

Clause 3.—The amendment of section 6 is designed to afford a clearer definition of the circumstances in which the liability under section 5 may be enforced than the somewhat obscure instructions at present contained in section 8. Two main sets of circumstances are contemplated. The liability may be enforced in the first place as a result of an application from an individual officer, but only if he can satisfy the Officer Commanding the Station that he cannot be provided with Government quarters and that after making all reasonable efforts he has been unable to make satisfactory private arrangements. In the second place, a shortage of accommodation in the Cantonment as a whole may render it necessary for the Officer Commanding to take more comprehensive action on his own initiative, instead of awaiting applications from individual officers, and new section 6 (1) (*b*) describes the circumstances in which he may do so. The "inspection" notice for which the section provides is intended to enable the Officer Commanding the Station to judge whether the building is a "house" as defined by the Act—namely, suitable for occupation by a military officer or mess.

Clause 4.—Section 7 (3) (*a*) of the Act, as it stands at present, makes it incumbent upon Government without any qualification to re-deliver a house to an owner, on the expiration of the lease, in a state of reasonable repair as defined in section 2 (1) (*i*). The ordinary rule, according to the provisions of the Transfer of Property Act, 1882, is that a lessee shall hand back the property in as good condition as it was at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force; and that a lease should, at the option of the lessee, be void if any material part of the property is wholly destroyed, or rendered unfit for the purposes for which it was let, as a result of fire, tempest, flood

or violence, provided that the injury was not occasioned by the wrongful act or default of the lessee. The Government have no intention of departing from the principle of section 7 (3) (*a*), which is already more than usually favourable to the lessor, but they see no reason why they should be excluded from the latter benefit mentioned above, and the Bill accordingly provides for the protection of Government in this respect to the same extent as in the case of an ordinary lessee.

Clause 5.—The omission of section 8 of the Act and of the words "with the previous sanction of the Officer Commanding the District" in the previous section [clause 4 (*a*)] is due to the fact that the Officer Commanding the District is himself, under section 30, the appellate authority against a decision to appropriate a house. The grounds which would justify such a decision are fully explained for the guidance of the Officer Commanding the Station in section 6 as amended, and it is illogical that the previous sanction of the Officer Commanding the District should be required to a decision on the correctness of which he may himself be called upon to adjudicate in appeal.

Clause 6.—The amendments to section 10 are designed, firstly, to protect the existing *bona fide* owner-occupier from disturbance, but to make it difficult or impossible for owners of houses in future to defeat the first object of the Act (*i.e.*, to secure accommodation for military officers) by going into "bogus occupation" on the eve of contemplated appropriation proceedings; and secondly, to make it clear that Government do not intend to appropriate houses built on private property which were not originally intended to provide accommodation for military officers.

Clauses 7, 8 *and* 9.—The reference to a Committee of Arbitration on the questions of the purchase value of a house, its rental value, or the amount of repairs required is done away with and the new clauses provide for a direct reference to the civil courts in these matters. The time allowed for the reference on the question of rent and repairs is extended to 30 days and the new sub-section (3) of section 16 gives the owner an opportunity to set forth his case on the question of repairs before the civil court.

Clause 10.—The new section makes it clear that the owner's failure to execute the repairs in time or his reference to the civil court need not cause any delay in the appropriation proceedings and thus prevent the Government from making use of the house for which they are paying rent. The Government is empowered to execute the repairs in spite of the reference, and the interests of the owner are safeguarded by the express provision that his liability is limited to the amount finally fixed by the courts.

Clause 11.—The chapter dealing with the procedure of Committees of Arbitration becomes superfluous and is replaced by a chapter explaining the procedure to be followed in hearing references to the civil courts made under sections 13, 15 and 16. The new sections are self-explanatory.

Clause 12.—The amended section provides for an appeal to the High Court, in place of the appeal to the civil court which previously lay from the decision of the Arbitration Committee.

Clause 13.—The amendment is consequential on the alteration of the definition of the Officer Commanding the Station [*see* clause 2 (*b*)].

Clause 14.—The first part of the amendment is consequential. The second part requires the Officer Commanding the District to record his reasons when deciding an appeal, which was not previously necessary.

Clause 15.—The amendment is consequential.

Clause 16.—The amendment extends to all references and appeals under the Act the provision in existing section 30 (2), to the effect that the period allowed for making an appeal should be computed in accordance with the provisions of the Indian Limitation Act, 1908.

Clause 17.—The amendment is consequential.

The following Report of the Select Committee on the Bill further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes, was presented to the Legislative Assembly on the 11th February 1930:—

We, the undersigned members of the Select Committee to which the Bill further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes, was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 3.—We are of opinion that the Officer Commanding the Station should make a regular inquiry before deciding whether he is satisfied as to the circumstances set forth in proposed section 6 (1) (*a*) and (*b*), and have made provision to that effect. We wish to express a hope that rules made under the Act will provide that the inquiry shall include a reference in each case to the house-owner.

We have somewhat extended the notice to be given under this section by expressing it to be three *clear* days' notice.

It seems advisable that the power of inspection should only be exercised between sunrise and sunset.

We have supplied an obvious omission by providing for applications in respect of a military mess.

The other changes in this clause are simply of a drafting nature, designed to make the meaning more clear.

Clause 6.—In the interests of house-owners we have considered it advisable to reduce the periods of three months and ten years referred to in proposed clauses (*c*) and (*cc*) of section 10 to one month and three years, respectively.

We have also in proposed clause (*cc*) of section 10 inserted an obviously desirable reference to military messes.

Clause 14.—We have made the purely formal amendment of omitting the word "General".

2. The Bill was published in the *Gazette of India* on the 7th September 1929.

3. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

B. L. MITTER.
G. M. YOUNG.
H. N. KUNZRU.*
B. S. MOONJE.*
ABDUL QAIYUM.
HUGH G. COCKE.
N. C. KELKAR.*

The 7th February 1930.

MINUTE OF DISSENT.

Under the Cantonments (House-Accommodation) Act, 1923, the Officer Commanding the station may, with the sanction of the Officer Commanding the District, issue a notice in respect of a house, suitable for occupation by a military officer or a military mess, requiring the owner "to execute a lease of the house to the Government for a specified period which shall not be less than five years." No such notice can, however, be issued in respect of a house which is occupied by the owner. The procedure which has to be followed

*Subject to a minute of dissent.

makes it possible for the owner to move into his house when it is vacated by a tenant, before a notice is served on him, and thus render it impossible for Government to appropriate it on a lease. The principal object of the present Bill is to deprive house-owners of the right referred to above which they enjoy at present. Under clause 6 (c) of the Bill as amended by the Select Committee a house will not be liable to appropriation only if the owner has been residing in it "continuously during the one month immediately preceding the issue of the notice." This condition will place it within the power of the military authorities to prevent the owner of a house from occupying it in future if he does not live in it already.

Strong reasons must be adduced before we can agree to the above-mentioned provision. It is reasonable on the part of Government to desire that there should be sufficient accommodation for military officers in cantonments but no instance was given to us in the Select Committee of any place where military officers are without accommodation. All that we understood was that in the more important places there was only a small number of houses available for future occupation by military officers. The shortage of accommodation for military officers may therefore be felt in future, but it has as yet brought about no serious situation which must be dealt with immediately in the manner suggested in the Bill. Generally speaking Indian house-owners have shown a tendency to occupy their houses in cantonments for two reasons. In some places, for instance on the frontier, there is much greater security in the cantonments than in the Indian part of the town. Again, there is in some places serious congestion in the Indian quarter and at the same time there is no civil station to which Indians, desirous of living in healthier surroundings, can shift. Unless these facts are recognized no equitable solution of the problem, which Government wish to deal with, is possible. If cantonments are extended so as to provide for the construction of bungalows for military officers with private capital, or civil stations are established, there will probably be no need for the legislation brought forward by Government. It is the duty of Government to devise a constructive scheme which will meet the requirements both of the military officers and of Indians and at the same time provide for the needs of Indians who desire to live outside old towns, in greater security and in more sanitary surroundings.

For reasons given above, and particularly, because no case was made out in the Select Committee in favour of clause 6 (c) of the Bill on the ground that there was shortage of accommodation, we are opposed to its inclusion in the Bill.—(*Report of the Select Committee.*)

[*20th March,* 1930.]

An Act further to amend the Cantonments (House-Accommodation) Act, 1923, *for certain purposes.*

WHEREAS it is expedient further to amend the Cantonments (House-Accommodation) Act, 1923, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title. 1. This Act may be called THE CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) ACT, 1930.

Amendment of section 2, Act VI of 1923. 2. In section 2 of the Cantonments (House-Accommodation) Act, 1923 (hereinafter referred to as the said Act),—

(*a*) clause (*b*) of sub-section (1) shall be omitted and clause (*bb*) shall be re-lettered as clause (*b*);

(*b*) in clause (*d*) of sub-section (1), after the words "in a cantonment" the following words shall be added, namely:—

"or, if that officer is the Officer Commanding the District, the military officer who would be in command of those forces in the absence of the Officer Commanding the District"; and

(c) in sub-section (2), for the words "District Magistrate" the word "Collector" shall be substituted.

Substitution of new section for section 6, Act VI of 1923.

3. For section 6 of the said Act the following section shall be substituted, namely:—

Conditions on which houses may be appropriated.

"6. (1) Where—

(a) a military officer who is stationed in or has been posted to the cantonment, or a President of a military mess in the cantonment, applies in writing to the Officer Commanding the Station stating that he is unable to secure suitable accommodation in the cantonment for himself or the mess on reasonable terms by private agreement, and that no suitable house or quarter belonging to Government is available for his occupation or for the occupation of the mess, and the Officer Commanding the Station is satisfied on inquiry of the truth of the facts so stated; or

(b) the Officer Commanding the Station is satisfied on inquiry that there is not in the cantonment a sufficient and assured supply of houses available at reasonable rates of rent by private agreement to meet the requirements of the military officers and military messes whose accommodation in the cantonment is in his opinion necessary or expedient,

the Officer Commanding the Station may, with a view to enforcing the liability under section 5, serve a notice on the owner of any house which appears to him to be suitable for occupation by a military officer or a military mess, as the case may be, within the cantonment, or, if this Act is in force in part only of the cantonment, within that part, requiring the owner to permit the house to be inspected, measured and surveyed by such person and on such date, not being less than three clear days from the service of the notice, and at such time between sunrise and sunset, as may be specified in the notice.

(2) On the date and at the time so specified the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house and, if he refuses or neglects to do so, such person may, subject to any rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose."

Amendment of section 7, Act VI of 1923.

4. In section 7 of the said Act,—

(a) in sub-section (1), the words "with the previous sanction of the Officer Commanding the District," shall be omitted; and

(b) to sub-section (3) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall be deemed to affect the right of the Government to avoid the lease in any such event as is specified in clause (e) of section 108 of the Transfer of Property Act, 1882."

Omission of section 8, Act VI of 1923.

5. Section 8 of the said Act, shall be omitted.

Amendment of section 13, Act VI of 1923.

6. In sub-section (2) of section 13 of the said Act, for the words "a Committee of Arbitration" the words "a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted.

Amendment of section 15, Act VI of 1623.

7. In section 15 of the said Act,—

(a) in sub-section (1), for the word "fifteen" the word "thirty" shall be substituted, and for the words "require that the matter be referred by the Officer Commanding the Station to a Committee of Arbitration" the words and figures "refer the matter to a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted; and

(b) in sub-section (2), for the word "requisition" the word "reference" shall be substituted.

Amendment of section 16, Act VI of 1923.

8. In section 16 of the said Act,—

(a) in sub-section (1), for the word "fifteen" the word "thirty" shall be substituted;

(b) in sub-section (2), for the word "fifteen" the word "thirty" shall be substituted, and for the words "require that the matter be referred by the Officer Commanding the Station to a Committee of Arbitration" the words and figures "refer the matter to a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted; and

(c) after sub-section (2), the following sub-section shall be added, namely:—

"(3) Every reference under sub-section (2) shall be accompanied by an estimate of the repairs, if any, which the owner considers necessary in order to put the house into a state of reasonable repair."

Substitution of new section for section 17, Act VI of 1923.

9. For section 17 of the said Act the following section shall be substituted, namely:—

Power to have repairs executed and recover cost.

"17. If the owner fails to comply with a notice issued under sub-section (1) of section 16, the Military Engineer Services or the Public Works Department may, with the previous sanction of the Officer Commanding the Station and notwithstanding any right of reference conferred by that section, cause

the repairs specified in the notice to be executed at the expense of the Government, and the cost thereof, or, where a reference has been made, the amount finally determined by the Civil Court, may be deducted from the rent payable to the owner."

10. For Chapter IV of the said Act, the following Chapter shall be substituted, namely:— Substitution of new Chapter for Chapter IV, Act VI of 1923.

"CHAPTER IV.

PROCEDURE IN REFERENCES.

19. All references under this Act shall be made by application to, and tried by, the Court of the District Judge. Jurisdiction in references.

20. References under this Act shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the Court may exercise any of its powers under that Code. Procedure and powers of the Court.

21. The scope of the inquiry in a reference under this Act shall be restricted to a consideration of the matters referred to the Court in accordance with the provisions of this Act." Restriction of scope of inquiry.

11. For section 29 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 29, Act VI of 1923.

"29. (1) An appeal shall lie to the High Court against the decision of the Court of the District Judge upon a reference tried by it. Appeal to High Court.

(2) No appeal under this section shall be admitted unless it is made within thirty days from the date of the decision against which it is preferred.

(3) An appeal preferred under this section shall be deemed to be an appeal from an order within the meaning of section 108 of the Code of Civil Procedure, 1908."

12. For section 30 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 30, Act VI of 1923.

"30. The owner or any tenant of a house in respect of which a notice has been issued under section 7 may, within a period of twenty-one days from the date of the service thereof, appeal to the Officer Commanding the District against the decision of the Officer Commanding the Station to appropriate the house." Appeal to Officer Commanding the District.

13. In section 32 of the said Act,— Amendment of section 32, Act VI of 1923.

(*a*) the words "or of the General Officer Commanding-in-Chief, the Command, as the case may be" shall be omitted; and

(*b*) after the proviso, the words "and in giving a decision the Officer Commanding the District shall record briefly the grounds therefor" shall be added.

Amendment of section 33, Act VI of 1923.

14. In section 33 of the said Act, for the words "by sub-section (2) of that section" the word "therein" shall be substituted.

Insertion of new section 34-A in Act VI of 1923.

15. After section 34 of the said Act the following section shall be inserted, namely:—

Computation of period of limitation.

"34-A. The period prescribed for making any reference or preferring any appeal under this Act shall be computed in accordance with the provisions of the Indian Limitation Act, 1908."

Amendment of section 35, Act VI of 1923.

16. In section 35 of the said Act, clause (*a*) of sub-section (2) shall be omitted.

THE INSOLVENCY LAW (AMENDMENT) ACT, 1930.

ACT No. X OF 1930.

PREFATORY NOTE:—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this Act:—

"The object of the Bill is to remove certain defects in the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, which have been recently brought to notice. The reasons for the several amendments proposed therein are explained in the appended Notes on Clauses.

NOTES ON CLAUSES.

Clauses 2, 4 *and* 5.—There is no specific provision in the Presidency-towns Insolvency Act, 1909, for the appointment of a deputy official assignee who could discharge all the duties and exercise all the functions of the official assignee. The insolvency work of the High Courts has increased since 1909 and the necessity of affording relief to the official assignees has been felt. It is therefore proposed to give power to the Chief Justices of the High Courts to appoint one or more deputy official assignees with the necessary powers.

Clause 3.—It has been held by some of the High Courts that section 18 (1) of the Presidency-towns Insolvency Act does not empower a Judge of the High Court sitting in insolvency to stay proceedings pending in respect of the same debtor in a Court subject to the superintendence of the High Court under the Provincial Insolvency Act. The need for such power has

been felt, particularly in Calcutta where a common practice prevails whereby debtors, who have carried on business in Calcutta, retire to some part of the province sufficiently remote and get an accommodating creditor to present a petition in insolvency against them in a District Court. This is done with the object of discouraging Calcutta creditors from prosecuting their claims or securing a searching investigation of the debtor's conduct and affairs. The clause gives power to the Judge of a High Court sitting in insolvency to stay or annul insolvency proceedings pending under the Provincial Insolvency Act in any Court subject to its superintendence in respect of the same debtor. It also empowers him to give necessary directions for the administration of the debtor's estate in the High Court.

Clause 6.—Section 53 of the Provincial Insolvency Act has given rise to conflicting judicial decisions as to whether the *terminus a quo* for the calculation of the period of two years referred to therein should be the date of the order of adjudication or the date of the presentation of the insolvency petition. The view that the *terminus a quo* should be the date of the presentation of the petition is in pursuance of the policy underlying the Act, and the contrary view leads to an abuse of the provision by dishonest and litigious debtors. The clause gives effect to the former view."—(*Statement of Objects and Reasons.*)

[20*th March*, 1930.]

An Act to amend the law relating to insolvency, for certain purposes.

WHEREAS it is expedient to amend the law relating to insolvency, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called THE INSOLVENCY LAW (AMENDMENT) ACT, 1930. Short title.

2. In clause (*c*) of section 2 of the Presidency-towns Insolvency Act, 1909 (hereinafter referred to as the said Act), after the words "acting official assignee", the words "and a deputy official assignee, whether permanent or acting" shall be added. Amendment of section 2, Act III of 1909.

3. After section 18 of the said Act, the following section shall be inserted, namely:— Insertion of new section 18-A in Act III of 1909.

"18-A. (1) The Court may, at any time after the presentation of an insolvency petition, stay any insolvency proceedings pending against the debtor in any Court subject to the superintendence of the Court, and may, at any time after the making of an order of adjudication, annul an adjudication against the debtor made by any such Court. Control over insolvency proceedings in subordinate Courts.

(2) Where an adjudication is annulled under sub-section (1), all sales and dispositions of property and payments duly made and all acts done by the Court whose order is annulled, or by the receiver appointed by it or other person acting under his authority, shall be valid, but the property vested in such Court or receiver shall vest in the official assignee, and the Court

may make such direction in regard to the custody of such property as it thinks fit.

(3) Notice of the order annulling an adjudication under sub-section (1) shall be published in the local official Gazette and in such other manner as may be prescribed."

Amendment of section 77, Act III of 1909.

4. In section 77 of the said Act,—

(*a*) in sub-section (1),—

(*i*) after the word "estates" the words "and such person or persons as he thinks fit to the office of deputy official assignee" shall be inserted, and

(*ii*) for the words "that office" the words "any of the said offices" shall be substituted;

(*b*) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1-*A*) Subject to rules made under section 112, the deputy official assignee shall have all the powers and shall discharge all the duties and in exercise of such powers and in the discharge of such duties shall be subject to all the liabilities of the official assignee under this Act"; and

(*c*) in sub-section (2), after the words "official assignee" the words "and every deputy official assignee" shall be inserted.

Amendment of section 112, Act III of 1909.

5. In sub-section (2) of section 112 of the said Act, after clause (*r*), the following clause shall be added, namely:—

"(*s*) the distribution of work between the official assignee and his deputy or deputies".

Amendment of section 53, Act V of 1920.

6. In section 53 of the Provincial Insolvency Act, 1920, after the words "is adjudged insolvent" the words "on a petition presented" shall be inserted.

THE INDIAN TARIFF (AMENDMENT) ACT, 1930.

ACT No. XI OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons:—

The object of this Bill is to give effect to certain minor amendments which it is proposed to make in Schedule II to the Indian Tariff Act, 1894 (VIII of 1894). The more important proposals in the Bill are dealt with *seriatim* below. They are included in a separate Bill instead of in the Finance Bill, because they have not been made primarily with reference to the revenues of 1930-31.

1. *Barks for tanning.*—It is proposed to abolish the 15 per cent. duty on these barks, which are now included in Item No. 92, on the grounds that they are raw material of an important industry; that it is more economical to use wattle bark, which forms the bulk of the imported barks, than other

tanning materials available in India; and that they are cheap and bulky and are entirely destroyed in the process of tanning hides and skins.

2. *Plants, living.*—In pursuance of a recommendation of the Royal Commission on Agriculture, living plants, which were liable to a duty of 15 per cent. have been exempted from duty by a notification under section 23 of the Sea Customs Act. It is now proposed to place this exemption on a statutory basis.

3. *Arms.*—Under the exception to the Second Schedule to the Arms Act of 1878 read with section 8 thereof, the appendages mentioned in this item were liable to the same duty as was leviable on firearms under Item 2 of the Tariff Act of 1875. The Tariff Act of 1875 was replaced by the Tariff Act of 1882 which took over from the Arms Act the Second Schedule and the exception thereto. The effect of this was to exempt these parts and accessories from duty altogether. This unintentional exemption has been continued in successive Acts, though these spare parts are rarely imported in the same case with a firearm. It is now proposed to omit Item No. 12 (*a*) altogether.

4. *Poultry Farming Appliances—Incubators.*—It is proposed to amend the heading of item 16 so as to enable poultry farming appliances to be treated in the same way as dairy appliances and to remove the import duty of 15 per cent. on incubators by adding them to the list of appliances specified under that item as so amended. A consequential amendment is also proposed in the item.

5. *Pans for boiling sugarcane juice; sugar centrifuges and pug-mills and parts thereof.*—It is proposed to place these on the free list under Item No. 18 of the Import Tariff. This and the amendments referred to in Item 4 are proposed in accordance with the recommendation contained in paragraph 110 of the Agricultural Commission's Report.

6. *Saccharine (except in tablets) and similar substances.*—Saccharine (except in tablets) is now liable to a specific duty of Rs. 5 per pound under Item No. 34-A of the Import Tariff. It is now proposed to add to this item other substances of a like nature or use to saccharine so as to bring under it substances from which saccharine can readily be made, but which are at present subject to lower duties.

7. *Wireless apparatus.*—By a notification under section 23 of the Sea Customs Act, the import duty leviable on apparatus for wireless telegraphs designed either for transmission or reception whether by telegraphy or telephony, including their component parts, has been reduced to 2½ per cent. It is now proposed to incorporate the exemption in the statutory tariff.

8. *Insulated copper cables containing pilot cores of a sectional area of less than one-eightieth part of a square inch.*—These cables are liable to a duty of 15 per cent. *ad valorem* under Item 90-A of the Import Tariff. By a notification under section 23 of the Sea Customs Act, however, they have been exempted from so much of this duty as is in excess of the duty (if any) to which they would have been liable if they had had no core of a sectional area of less than 1|80th part of a square inch. The effect of this exemption is to make them free, if they are insulated otherwise than by rubber [*vide* Item 18-A (5)] and to make them subject to a duty of 5 per cent. *ad valorem*, if they are insulated by rubber (*vide* Item 43-B).

The reason for making the exemption is that the pilot cores only perform a subsidiary function and that it is the size of the power cores that should determine the question whether the cables should be assessed to duty under Item 90-A or should enjoy privileged treatment under Item 18-A (5) or 43-B. It is now proposed to place the exemption on a statutory basis.

9. *Domestic refrigerators.*—Certain kinds of refrigerators are operated by machines requiring more than ¼ brake horse-power and are therefore free under Item No. 18-A, while other competing types which are not so operated are assessed to duty under item No. 96. It has been represented that this

manner of assessment gives undue advantage to one type of refrigerators over the others. As Item 18-A was intended to encourage the importation of machinery representing fixed capital employed in productive industries and household refrigerators do not fulfil this condition, it is proposed to insert a new item (90-B) so as to make all domestic refrigerators, without regard to the mode of operation, liable to duty at the general rate of 15 per cent. *ad valorem*.

10. *Bangles, beads and false pearls.*—It is considered that these articles, whatever the material of which they are made, should be treated alike and be subject to a duty of 30 per cent. *ad valorem*. It is accordingly proposed to omit Item No. 131 and the heading thereto and to insert a new item under the heading "Miscellaneous" in the same part, namely, "Bangles, beads and false pearls".

11. The amendments are intended to come into effect from the seventh day after the Bill becomes law.—(*Statement of Objects and Reasons.*)

The following are extracts from the Report of the Select Committee:—

We have amended Item 9 in the Schedule so as to make provision for the specification by notification of such substances as it may be considered necessary to bring under the specific duty applicable to Saccharine. The formula contained in the Bill would leave to the various Collectors of Customs at the time of importation the decision whether any particular substance was or was not a substance of a like nature or use to Saccharine. The object of our amendment is to secure uniformity of treatment at the various ports.

We have deleted Item 11 of the Schedule. We understand that on account of the failure of the Indian Broadcasting Company since the Bill was drafted, proposals for the continuation of broadcasting operations by direct Government agency are under consideration, and that, if such a scheme materializes, it will be necessary to provide in it that revenues corresponding to those previously received by the Indian Broadcasting Company shall in future be received by the Government. The Indian Broadcasting Company's revenues were derived partly from a portion of the licence fees charged on receiving sets and partly from a "tribute" of 10 per cent. on the invoiced value of certain of the apparatus required for wireless telegraphy. The import duty on wireless apparatus has been reduced from the statutory rate of 15 per cent. *ad valorem* to 2 1|2 per cent. *ad valorem* by a notification under section 23 of the Sea Customs Act. The most convenient method of securing to Government a revenue corresponding to that formerly received by the Indian Broadcasting Company from imports of wireless receiving sets is by restoring the statutory duty of 15 per cent. *ad valorem*, or part of it. The exact adjustment of the import tariff which will be necessary for this purpose has yet to be determined, and in the meantime it is desirable that no alteration should be made in the statutory tariff.—(*Report of Select Committee.*)

[21st *March*, 1930.]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called THE INDIAN TARIFF (AMENDMENT) ACT, 1930.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act.

Amendment of the Second Schedule to Act VIII of 1894.

THE SCHEDULE.

(*See section* 2.)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. After Item No. 2 and under the heading "*II.—Raw materials and produce and articles mainly unmanufactured*—", the following heading and Item shall be inserted, namely:—

"DYES AND COLOURS.

2-A. BARKS for tanning."

2. In Item No. 9, after the words "calcium cyanamide", the words "ammonium phospates" shall be inserted.

3. In Item No. 12, sub-item (*a*) shall be omitted.

4. In Item No. 15, after the words "spraying machines", the words "powder-blowers, white-ant exterminating machines," shall be inserted.

5. In Item No. 16,—

(*a*) for the words "DAIRY APPLIANCES", the words "DAIRY AND POULTRY FARMING APPLIANCES" shall be substituted;

(*b*) for the words "and butter workers" the following words shall be substituted, namely:—

"butter workers, milk-bottle fillers and cappers, apparatus specially designed for testing milk and other dairy produce, and incubators"; and

(*c*) for the words "dairy purposes", the words "dairy and poultry farming purposes" shall be substituted.

6. In Item No. 18,—

(*a*) after the words "SUGAR-MILLS", the words "SUGAR CENTRIFUGES, SUGAR PUG-MILLS," shall be inserted; and

(*b*) after the words "animal power", the words ", and pans for boiling sugarcane juice" shall be inserted.

7. In Item No. 18-C,—

(*a*) after the words "electrotype blocks", the words "process blocks and highly polished copper or zinc sheets specially prepared for making process blocks," shall be inserted;

(*b*) after the words "roller composition", the words "lithographic nap rollers," shall be inserted;

(*c*) after the words "and casting machines", the words "paper in rolls with side perforations to be used after further perforation for type-casting," shall be inserted; and

(*d*) for the words "and paging machines", the words "paging machines and clarified liquid glue," shall be substituted.

8. After Item No. 25-A, the following Item shall be inserted, namely:—

"25-B. PLANTS, living, all sorts."

9. In Item No. 34-A, after the words and brackets "(except in tablets)", the words "and such other substances as the Governor-General in Council may, by notification in the *Gazette of India*, declare to be of a like nature or use to saccharine" shall be inserted.

10. In Item No. 43-B, for the words "no core of which", the words "no core of which, other than one specially designed as a pilot core" shall be substituted.

11. In Item No. 63, the words "and component parts thereof" shall be omitted.

12. In Item No. 85, for the words "gold and silver thread", the words "articles made of gold or silver thread" shall be substituted.

13. In Item No. 90-A, for the words "any one core of which" the words "any one core of which, not being one specially designed as a pilot core," shall be substituted.

14. After Item No. 90-A, the following Item shall be inserted, namely:—

"90-B. DOMESTIC REFRIGERATORS."

15. In Item No. 101, after the word and figures "No. 23", the words and figures "and No. 138" shall be inserted.

16. The heading "GLASSWARE AND EARTHENWARE" and Item No. 131 shall be omitted; and Items Nos. 132, 133 and 134 shall be re-numbered as Items Nos. 131, 132 and 133, respectively.

17. Under the heading "MISCELLANEOUS" and before Item No. 135, the following shall be inserted as Item No. 134, namely:—

"134. BANGLES, beads and false pearls."

18. In Item No. 136, after the word "manufactured", the words "not otherwise specified" shall be inserted.

THE STEEL INDUSTRY (PROTECTION) ACT, 1930.

ACT No. XII OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons annexed to the Bill:—

"Under item No. 152 of the Tariff Schedule read with item No. 62 (*c*) (*i*) and (*ii*) thereof, round and square bars and rods of sizes ½ inch and above are liable to a protective duty of Rs. 26 or 37 per ton, according as they are of British manufacture or not. It has been represented to Government that steel bars of sizes of 15|32 inch and 31|64 inch, manufactured to special orders for use in substitution for ½ inch bars, are being imported with the object of evading the protective duty leviable on ½ inch bars. Statistics specially maintained to watch the imports of bars and rods show that the importations of these special sizes are increasing. As there is no stock size intermediate between ½ inch and 7|16 inch, it is evident that the object of these importations is, as stated above and that as far as ½ inch bars and rods are concerned the intention of the Steel Industry (Protection) Act, 1927, is being defeated to a considerable extent. It is accordingly proposed to bring all steel bar and rod over 7|16 inch under the protective duty so as to make the protection granted to ½ inch bars fully effective. Item 2 of the Schedule to the Bill provides for this.

2. The Tariff Board, in paragraph 159 of their Report regarding the continuance of protection to the steel industry recommended that spikes and tie-bars should be subject to the same protective duties as bars so that the basic duty would be Rs. 26 per ton and the additional duty Rs. 11 per ton. Item No. 150 of the Indian Tariff Act which was inserted by the Steel Industry (Protection) Act, 1927, was intended to give effect to this recommendation. It has been held, however, that the wording of the entry does not in fact carry out the intention, and that tie-bars for cast iron sleepers are not subject to the protective duty leviable thereunder, but are assessable at 10 per cent. *ad valorem* as "fastenings" for such sleepers under item No. 61. Items 1 and 3 of the schedule to the Bill accordingly amend

items Nos. 61 and 150 of the Import Tariff, so as to give full effect to the scheme of protection adopted by the Legislature."—(*Statement of Objects and Reasons.*)

The Select Committee to which the Bill was referred made no alterations therein.—(See *Report of Select Committee.*)

[21*st March,* 1930.]

An Act to amend the law relating to the fostering and development of the steel industry in British India for certain purposes.

WHEREAS it is expedient to amend the law relating to the fostering and development of the steel industry in British India for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. (1) This Act may be called THE STEEL INDUSTRY (PROTECTION) ACT, 1930. Short title and commencement.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India,* appoint.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of Second Schedule to Act VIII of 1894.

THE SCHEDULE.

(*See section* 2.)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In item No 61, in the fifth sub-item (relating to IRON OR STEEL railway track material not otherwise specified), after the words "fastenings therefor", the words "other than tie-bars" shall be inserted.

2. In item No. 62, in the fifth sub-item (relating to STEEL, bar and rod), in part (*c*) thereof—

(*a*) for the entry "(*i*) rounds under 1|2 inch diameter", the entry "(*i*) rounds not over 7|16 inch diameter" shall be substituted; and

(*b*) for the entry "(*ii*) squares under 1|2 inch side", the entry "(*ii*) squares not over 7|16 inch side" shall be substituted.

3. In item No. 150,—

(*a*) in part (a) of sub-item A, entry (*iii*) relating to spikes and tie-bars shall be omitted;

(*b*) in part (b) of sub-item A, the words "spikes and tie-bars" shall be omitted; and

(*c*) the following sub-item shall be added, namely:—

"D. Spikes and tie-bars—

of British manufacture ..	Rs. 26 per ton.
not of British manufacture ..	Rs. 37 per ton."

THE INLAND STEAM-VESSELS (AMENDMENT) ACT, 1930.

ACT No. XIII OF 1930.

PREFATORY NOTE:—The following Report of the Select Committee on the Bill further to amend the Inland Steam-Vessels Act, 1917, was presented to the Legislative Assembly on 20th January, 1930:—

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Inland Steam-Vessels Act, 1917, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Papers Nos. I-III.

2. We have amended the long title and preamble so as to bring them into the usual form.

In sub-clause (2) of clause 1, we propose that the Bill should come into force at the beginning of the year following its passing, except in the case of clause (b) of sub-section (1) of proposed section 54-A which is discussed in paragraph 5 below.

The following paragraphs give our reasons for re-drafting the proposed new sections 54-A and 54-B.

3. The new section 54-A provides that the Governor-General in Council should fix maximum and minimum fares and freights "after such inquiry as he considers necessary". We contemplate that the inquiry would be carried out by a Rates Committee appointed after consultation with the Local Government concerned, but we do not consider it necessary to make specific provision in the Bill for the manner in which it should be constituted.

4. We have modified the provisions of sub-section (1) of the proposed section 54-A, so as to empower the Governor-General in Council to fix maximum or minimum rates per mile for any system of inland waterways, or for any stretch of inland waterway, or for the run between any two stations on an inland waterway. If, however, the rates are fixed per mile, a difficulty arises which we have endeavoured to meet by the insertion of clause (d) of the sub-section. In view of the conditions prevailing, at any rate in Bengal and Assam, we are agreed that, if the Bill is not to be infructuous, Government should be empowered to fix not only the rate per mile, but also to declare the distance which should be deemed to be the distance between any two stations for the purpose of calculating the passenger fares or the freight charges for goods. River channels, particularly in the deltaic area in Bengal, are unstable and liable to frequent changes and the routes taken by steamers are not only liable to variation from year to year but from season to season. If a maximum rate per mile only were fixed, the onus of proving that the mileage adopted for the purpose of calculating the fare or freight was incorrect would be upon the aggrieved party, and we fear that this would render the Bill in a large measure ineffective.

5. We are agreed that the provision in the Bill relating to maximum freight rates on goods should come into force from such date as the Governor-General in Council may appoint. Many complaints have been made about passenger fares charged by the inland steamship companies, particularly in Bengal, but the complaints about goods rates have been comparatively few. It is possible indeed that the competition of the country boats may act as a check on the freights which the steamship companies can charge for certain classes of goods. We think that further evidence must be brought

forward before the necessity of maximum goods rates can be held to be established, and it is for this reason we have provided in clause 1 of the Bill that clause (b) of sub-section (1) of the new section 54-A should not come into force from the same date as the other sub-clauses.

6. To justify the imposition of minimum rates of fares and freights, we are agreed that it should be established to the satisfaction of the Governor-General in Council that a rate-war is in progress between competing steamer companies. Sub-section (2) of proposed section 54-A provides for this.

7. The classification of goods for the purpose of fixing freight rates is necessarily complicated, and the determination of minimum freight rates for each class of goods would be a difficult undertaking. It may not be necessary, however, for Government to undertake the determination of minimum freight rates for all classes of goods. Ordinarily it should be sufficient for the purpose of the Bill for Government to determine minimum freight rates for the staple commodities in which competition is most likely to be severe.

8. We consider the question whether provision should be made in the Bill to guard against the danger that the minimum freights and fares fixed by Government might be evaded by secret rebates, the payment of claims of doubtful validity and similar devices, but we felt that we had not before us the materials which would justify any specific recommendation. We think, however, that if after minimum rates have been fixed, there is reason to believe that evasion is being practised, Government should instruct the Rates Committee which, as we have recommended, will make the inquiries before maximum or minimum rates are fixed, to investigate the complaints received and to make recommendations as to the measures necessary to remedy such abuses as are found to exist.

9. Under the provisions of the new section 54-B, the constitution, procedure and functions of the Advisory Committees to be appointed will be regulated by the rules made by Local Governments. We believe that several Committees constituted to represent particular local areas will be more useful than a single Committee for a whole province. We have re-drafted the new section 54-B, and made it cover the shippers of goods as well as passengers.

[24th March, 1930.]

An Act further to amend the Inland Steam-Vessels Act, 1917, for certain purposes.

WHEREAS it is expedient further to amend the Inland Steam-Vessels Act, 1917, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. (1) This Act may be called THE INLAND STEAM-VESSELS (AMENDMENT) ACT, 1930. Short title and commencement.

(2) It shall come into force on the first day of January, 1931, except clause (b) of sub-section (1) of section 54-A of the Inland Steam-Vessels Act, 1917, as hereby enacted, which shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

Insertion of new sections 54-A and 54-B in Act I of 1917.

2. In Chapter VI of the Inland Steam-Vessels Act, 1917, after section 54 the following sections shall be inserted, namely:—

Power of Governor-General in Council to fix maximum and minimum rates for passenger fares and freight for goods.

"54-A. (1) The Governor-General in Council may, by notification in the *Gazette of India*, after such inquiry as he may consider necessary, in respect of any system of inland waterways, or of any stretch of inland waterway, or of the run between any two stations on the inland waterway,—

(*a*) fix the maximum or minimum rate per mile which may be charged for passenger fares for passengers of any class travelling on inland steam-vessels;

(*b*) fix the maximum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels;

(*c*) fix the minimum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels; and

(*d*) declare what shall be deemed to be the distance between any two stations on an inland waterway for the purpose of calculating passengers' fares or freight on goods where maximum or minimum rates have been fixed under this section.

(2) The Governor-General in Council shall not fix any minimum rate under clause (*a*) or clause (*c*) of sub-section (1) in respect of any class of passengers or description of goods carried on any system of waterways, or stretch of waterway, or on the run between any two stations on an inland waterway, unless he is satisfied that the rates charged on any inland steam-vessel or group of such vessels in respect of such passengers or goods have been reduced to such an extent as to disclose an intention to force any other inland steam-vessel or group of such vessels to cease from carrying such passengers or goods.

Power to make rules providing for the appointment of Advisory Committees.

54-B. The Local Government may make rules providing for the appointment, constitution, procedure and functions of Committees to advise the owners, agents and charterers of inland steam-vessels on questions affecting the interests of passengers and shippers of goods."

THE INDIAN RAILWAYS (AMENDMENT) ACT, 1930.

ACT No. XIV OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons annexed to the original Bill:—

1. The Washington Convention, limiting the hours of work in industrial undertakings, provides *inter alia* that in British India the principle of a sixty-hour week shall be adopted for workers in the industries covered by the Indian Factories Act (XII of 1911), in mines and in such branches of railway work as shall be specified for this purpose by the competent authority.

2. In the Geneva Convention concerning the grant of weekly rest in industrial undertakings, the definition of 'industrial undertakings' is subject to the special national exceptions contained in the Washington Convention, from which it follows that the concession of the weekly rest is also prescribed for the same categories of workers in British India as are covered by the Washington Convention.

3. These Conventions were promulgated in 1919 and 1921, and ratified by the Government of India in 1921 and 1923, respectively, and their application to Indian railways has been the subject of prolonged investigations. Persons employed in workshops and collieries have already been brought under the Conventions by the amendment of the Indian Factories Act, 1911, and the enactment of the Indian Mines Act, 1923.

With regard to the railway staffs, efforts have hitherto been directed towards the application of the principles of the Conventions to railway servants in India by executive orders to the State-managed railway administrations and by invitation to the Company-managed railway administrations.

In the opinion of the Governor-General in Council the time has now arrived to institute measures for giving effect to the statutory obligations incurred by the ratification of the Conventions, and the first step in this direction is to create a competent authority which will specify the branches of railway work and frame other rules for this purpose.

4. It is accordingly proposed to amend the Indian Railways Act, 1890, by the insertion of a new section 47-A empowering the Governor-General in Council to make the rules generally to regulate the hours of work and periods of rest of railway servants other than those working in factories and in mines (for whom adequate provision is already made in the Factories and Mines Acts) and the proposed amendment is embodied in clause 2 of the Bill.

Clause 3 amends section 143 so as to secure that the rules made under section 47-A shall not come into force until they have been published in the *Gazette of India*.—(*Statement of Objects and Reasons.*)

The following are extracts from Report of the Select Committee on the Bill further to amend the Indian Railways Act, 1890:—

The Bill as introduced contained merely a rule-making power and it was intended that the rules should contain the provisions necessary to give effect to the Washington and the Geneva Conventions in their application to railways in British India. We consider that the Bill should go further than this and should embody the principal relevant provisions of these two Conventions. We have expanded the Bill accordingly. We would emphasise, however, that the draft rules laid before us by the Government contained all the provisions which we have now embodied in the Bill, and we consider, therefore, that we are introducing no new principle into the Bill but are merely expressing in it principles which, according to the original intention, were to have been expressed in statutory rules made under it.

We consider it advisable to record some notes on the various provisions of the Bill in order not only to explain their nature but also to show how the Bill now carries out the Washington and the Geneva Convention.

Clause I.—Sub-clause (2) is necessary as conditions on the different railways vary, and some railways will be in a position to give effect to this Bill earlier than others. It is desirable that the Bill should come into force on

each railway as soon as possible and for this reason we have not fixed any one date, which might be too early for some railways or too late for others. We understand that Government has already taken preliminary steps to give effect to the provisions of the Bill, in regard to hours of work and periods of rest on all railways in British India, that to a large extent its provisions will be introduced on all railways within a comparatively short period, and that complete effect will be given to all the provisions of the Bill in about two years from the date on which it becomes law.

Clause 2—*Proposed section* 71-*A*.—The definition in clause (*a*) explains the words ''essentially intermittent'' used in article 6 (*a*) of the Washington Convention.

Proposed section 71-*C*.—Sub-section (1) is the substance of Article 10 of the Washington Convention. Sub-section (2) fixes a limit to the hours of work of those railway servants whose work is essentially intermittent. The Convention does not require the imposition of such a limit, but we consider it desirable that it should find a place in the law as a maximum. Sub-section (3) is based on Article 3 and clause (*b*) of article 6 of the Washington Convention.

In connection with sub-section (1) we considered the suggestion whether a forty-eight hour week should not be provided for in the Bill, but we consider that the primary object of this Bill is to enable the Government of India to make good the obligations incurred under the two International Conventions and that it is not desirable to attempt to do more than this at present. The introduction of a forty-eight hour week would necessitate a further prolonged period of preparation, and would also involve very heavy expenditure. For this reason we have not accepted the suggestion. We understand, however, that an investigation has been started by Government, and will be continued, with a view to fixing the hours of work at a lower figure than fifty-six hours a week for those railway servants whose duties are specially arduous and involve continuous concentration.

As regards the proviso to sub-section (3), the Bill provides that overtime must be paid only in cases falling under clause (*b*), that is, cases of exceptional pressure of work. The proviso does not cover clause (*a*), which relates to emergencies involving serious interference with the ordinary working of the railway. We considered whether the proviso should not apply also to overtime work in cases falling under clause (*a*), but the Bill, as re-drafted, is in accordance with the Washington Convention, which does not make the payment of over-time obligatory except when the extra hours of duty are due to exceptional pressure of work; and, until the question has been further examined, we do not consider it advisable to impose a statutory obligation to pay overtime in cases falling under clause (*a*). We are informed that the present practice varies on different railways, and we think that Government should investigate the question whether some provision ought not to be made either for the payment of overtime in such cases or for a compensatory period of rest.

Proposed section 71-*D*.—The body of sub-section (1) gives effect to Article 2 of the Geneva Convention; and the proviso is based upon Article 4, read with paragraph 2 of Article 1. Sub-sections (2) and (3) are based on Article 4. The proviso to sub-section (3) is based upon Article 5 of the Geneva Convention.

Proposed section 71-*E*. contains a much reduced rule-making power necessary to implement the provisions of the Bill.

Proposed section 71-*F*.—We are of opinion that the investigation recommended by us in connection with the proviso to clause 71-C should also cover the question of the payment of overtime or grant of compensatory periods of rest to railway servants who may have to work for extra time in the circumstances contemplated by this section.

Proposed section 71-G.—The scheme of this section is that the Governor-General in Council should appoint suitable persons, who will be independent of the railway administrations, to make regular inspections of labour conditions on railways in order to furnish Government with reliable and independent evidence of the manner in which the provisions of the law are being carried out.—(*Report of the Select Committee.*)

NOTE.

I think, I owe it to myself that I should state my reasons for signing the Select Committee's Report. The essential feature of the rules embodied in this Bill is that, statutory provision is now for the first time being made for (1) limitation of maximum period of employment both for continuous and essentially intermittent workers, (2) the obligation to give both these classes of workers a necessary period of rest at fixed intervals. This provision, it is claimed, carries out the obligation of the Government to give effect to the provisions of the Geneva and Washington Conventions. But it does not come up to the demands put forward by the Railway Workmen's Unions in this respect. I do not think these demands unreasonable in themselves. But I have persuaded myself to agree to the present provision in the Statutory Rules about the periods of employment and rest as only *a first instalment*. The obligation to conform to the provisions of the two conventions cannot prevent Government from reducing the hours of employment, increasing the periods of rest, and reducing the intervals between them, if they mean to do it. Therefore, I do not regard the alleged obligation to conform to the conventions as a valid reason for not complying with the demands of the Railwaymen's Unions. But I take into consideration the assurance given to us on behalf of the Railway Board, that "An investigation has been started by Government and will be continued, with a view to fixing hours of work at a lower figure than 56 hours a week for those Railway servants, whose duties are specially arduous and involve continuous concentration".

I recognise that after all every thing that is due to the workers, in respect of the limitation of employment and the provision for periodical rest, cannot be secured by a rigid or a uniform statutory provision. If, on the one hand, the equities due to the Railway workmen must be taken into consideration, on the other hand, one must also take into consideration, from the tax-payer's point of view, the expenditure likely to be involved at a jump in a sudden compliance with the workmen's full demands. Also on many points arising out of the new scheme, a prolonged investigation, we were told, will have to be made into the working of the administrative machinery so that the intended benefits of the new provisions about the periods of employment and rest may be fully realised by the workers.

This is quite possible, and it is reasonable, to allow the Railway Board some time to make the necessary investigation. But I hope, that there will be on the part of the Railway Board an earnest effort, to make the investigation, to carry out the adjustment, with the sole purpose, as far as possible, of approximating to the Railwaymen's demands, which, as I have already said, in my opinion, are reasonable, and must be granted at not a distant future. From this point of view I specially welcome and appreciate the provision about the appointment of "suitable persons, independent of the Railway administration, to make regular inspections of labour conditions of railways, in order to furnish reliable and independent evidence of the manner, in which the provision of the Law are being carried out". In this respect I suggest two things:

(1) That the reports of these inspectors should be made available to the Members of the Legislature from time to time, in such manner as may be regarded convenient, and

(2) That due facilities should be given to accredited representatives of the Unions also on their part to watch the administration of the rules.

I can realise that comparatively little can be done in this complicated business, through the letter of the Law or even rules and regulations. Much depends upon practical experience of details, and I hope that though the Railway Board may be kept back by such considerations, from making the full concessions demanded by their employees immediately, still it will at least give no reason for a well-founded apprehension, that it merely wants to save expense at the cost of equities due to the workers. (N. C. KELKAR.)

MINUTES OF DISSENT.

I sign the Report subject to certain reservations. In the proposed section 71-C, sub-section (1), I consider that the maximum limit of 48 hours should be fixed in case of all railway servants other than those whose employment is of an essentially intermittent character. In the Washington Conference India was permitted to have a 60-hour week on the ground that an 8-hour day in India would be less productive than an 8-hour day in other industrially advanced countries. Whatever arguments there may or may not be for a 60-hour week in industries which are to face foreign competition, the same do not hold good in case of the Indian railway system, which is practically a monopoly and has not to face competition from anywhere else. With regard to the objection that the adoption of a 48-hour week will involve "very heavy expenditure", no definite estimate has been placed before the Committee to warrant that conclusion, and I consider that the cost of the adoption of a 48-hour week for continuous workers will not be prohibitive.

Section 71-C, sub-section (2), should, in my judgment, be so modified as to impose a maximum limit of 60 hours a week in case of intermittent workers.

The proviso to sub-section (1) of section 71-D, excluding the railway servants whose work is of an essentially intermittent character from the right to a weekly day of rest, should be deleted. For it is manifestly unfair that railway servants whose maximum hours of work has been fixed at 84 should be denied the right to a weekly rest. (ABDUL MATIN CHAUDHURY.)

I am of opinion that in clause 71-C (1), the word "fortnight" be inserted in place of "sixty" and that in clause 71-C (2), the word "sixty" be inserted in place of "eighty-four." If I am not mistaken in the case of the running staff or the Postal Department, sorters whose employment is essentially intermittent, are not employed for more than 36 hours a week and those whose employment is not essentially intermittent, 8 hours a day, which, where Sundays are not allowed, works out to 56 hours a week and where Sundays are allowed, to 48 hours a week. In the Telegraph Department too, the hours of employment are not more than 8 a day with some relaxation on Sundays.

I am also of opinion that in the proviso to clause 71-C (3), for the words "exempted under clause (*b*)", the words "exempted under clause (*a*) or clause (*b*)" be substituted as, I think, so far as the workers are concerned, overtime is due to those exempted under clause (*a*) as much as to those exempted under clause (*b*). (HAR BILAS SARDA.)

[26*th March*, 1930.]

An Act further to amend the Indian Railways Act, 1890, *for certain purposes.*

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title and Commencement.

1. (1) This Act may be called THE INDIAN RAILWAYS (AMENDMENT) ACT, 1930.

(2) This section shall come into force at once; and the Governor-General in Council may, by notification in the *Gazette of India*, direct that the other provisions of this Act shall come into force in respect of any railway on such date as he may by the notification appoint.

Insertion of new Chapter VI-A in Act IX of 1890.

2. After Chapter VI of the Indian Railways Act, 1890, the following Chapter shall be inserted, namely:—

"CHAPTER VI-A.

Limitation of employment of railway servants.

Definitions.

71-A. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) the employment of a railway servant is said to be 'essentially intermittent' when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention; and

(*b*) except in section 71-B, a 'railway servant' means a railway servant to whom the Chapter applies.

Application of Chapter VI-A.

71-B. This Chapter applies only to such railway servants or classes of railway servants as the Governor-General in Council may, by rules made under section 71-E, prescribe;

Limitation of hours of work.

71-C. (1) A railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month.

(2) A railway servant whose employment is essentially intermittent shall not be employed for more than eighty-four hours in any week.

(3) Subject to rules made under section 71-E, temporary exemptions of railway servants from the provisions of sub-section (1) and sub-section (2) may be made—

(*a*) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling-stock, or in any emergency which could not have been foreseen or prevented; and

(*b*) in cases of exceptional pressure of work not falling within the scope of clause (*a*):

Provided that a railway servant exempted under clause (*b*) shall be paid for overtime at not less than one and a quarter times his ordinary rate of pay.

Grant of periodical rest.

71-D. (1) A railway servant shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours:

Provided that this sub-section shall not apply to a railway servant whose employment is essentially intermittent, or to a railway servant to whom sub-section (2) applies.

(2) The Governor-General in Council may, by rules made under section 71-E, specify the railway servants or classes of railway servants to whom periods of rest may be granted on a scale less than that laid down in sub-section (1), and may prescribe the periods of rest to be granted to such railway servants.

(3) Subject to rules made under section 71-E, temporary exemptions from the grant of periods of rest may be made in the cases or circumstances specified in sub-section (3) of section 71-C:

Provided that a railway servant shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

Power to make rules.

71-E. (1) The Governor-General in Council may make rules—

(*a*) prescribing the railway servants or classes of railway servants to whom this Chapter shall apply;

(*b*) prescribing the authorities who may declare that the employment of any railway servant or class of railway servants is essentially intermittent;

(*c*) specifying the railway servants or classes of railway servants to whom sub-section (2) of section 71-D shall apply;

(*d*) prescribing the authorities by whom exemptions under sub-section (3) of section 71-C or sub-section (3) of section 71-D may be made;

(*e*) providing for the delegation of their powers by the authorities prescribed under clause (*d*); and

(*f*) providing for any other matter which is to be provided for by rules or which the Governor-General in Council may deem to be requisite for carrying out the purposes of this Chapter.

(2) Such rules shall be subject to the provisions of section 143.

Railway servant to remain on duty.

71-F. Nothing in this Chapter or the rules made thereunder shall authorise a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

Supervisors of Railway Labour

71-G. (1) The Governor-General in Council may appoint persons to be Supervisors of Railway Labour.

(2) The duties of Supervisors of Railway Labour shall be—

(*a*) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed, and

(*b*) such other duties as the Governor-General in Council may prescribe.

(3) A Supervisor of Railway Labour shall be deemed to be an Inspector for the purposes of sections 5 and 6.

71-H. Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.". Penalty.

THE INDIAN FINANCE ACT, 1930.

ACT No. XV OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons annexed to the Finance Bill, 1930:—

"The object of this Bill is to continue certain provisions of the Indian Finance Act, 1929, which would otherwise cease to have effect from the 1st April, 1930; to levy an import duty on silver subject to a full drawback; to raise the import duties on sugar and cotton piece-goods; to raise the export duty and reduce the import duty on kerosene; to reduce the export duty on rice; to increase the rates of income-tax and super-tax in certain grades; and to enable Reparation receipts to be appropriated to revenue. The new measures have been explained at length in my budget speech. The following is a brief explanation of the individual provisions.

2. Clauses 3 and 5 provide for the continuance, for a further period of one year, of the rates of salt duty and postage prescribed by the Indian Finance Act, 1929, while clause 8 provides for the credit to revenue, till the 31st March, 1931, of interest on securities forming part of the Paper Currency Reserve.

3. Clause 4 provides for the following alterations in customs tariff:—

(*i*) Levy of an import duty of 4 annas an ounce on silver bullion and coin as specified in Schedule I, with a full drawback in the case of re-exports, which is provided by clause 2. This is expected to yield Rs. 1 crore in 1930-31.

(*ii*) Increase of the import duty on all kinds of sugar and sugar-candy, but not molasses, by Re. 1-8-0 per cwt. In the case of sugar below 8 Dutch Standard and sugar-candy, this will mean the levy of a composite duty of 25 per cent. *ad valorem* plus Rs. 1-8-0 per cwt. This is calculated to yield Rs. 1,80 lakhs in 1930-31.

(*iii*) Increase in the import duty on cotton piece-goods from 11 per cent. to 15 per cent. *ad valorem*, which is expected to bring in Rs. 1,25 lakhs next year.

(*iv*) Reduction in the import duty on kerosene from $2\frac{1}{2}$ annas to $2\frac{1}{4}$ annas a gallon. This is coupled with the increase in the corresponding excise duty from 1 anna to $1\frac{1}{2}$ annas a gallon which is provided for in clause 7. While the latter measure will yield an additional 50 lakhs, the former

will cost Rs. 15 lakhs in 1930-31, but will help generally to keep down the price.

(v) Reduction in the export duty on rice from 3 annas to $2\frac{1}{4}$ annas a maund which will cost Rs. 30 lakhs to Government next year but is designed to remove the disparity, which at present exists, between the Indian export duty and that imposed by Siam.

4. Clause 6 provides for the continuance for another year of the rates of income-tax and super-tax prescribed by the Indian Finance Act, 1929, with an increase of a pie in the rupee in rates of—

(i) income-tax on incomes of Rs. 15,000 and upwards, and

(ii) super-tax with the exception of companies' super-tax.

This addition is expected to yield a revenue of Rs. 70 lakhs in 1930-31.

5. Clause 9 seeks to repeal section 7 of the Indian Finance Act, 1926, which requires that Reparation receipts subject to certain reductions should be appropriated for the reduction or avoidance of public debt. The repeal will release the receipts for revenue purposes. The amount which will be so released in 1930-31 will be Rs. 32 lakhs.—(See *Statement of Objects and Reasons.*)

[28*th March*, 1930.]

An Act further to amend the Sea Customs Act, 1878, *to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act*, 1894, *to fix maximum rates of postage under the Indian Post Office Act*, 1898, *to fix rates of income-tax, to vary the excise duty on kerosene leviable under the Indian Finance Act*, 1922, *and further to amend the Indian Paper Currency Act*, 1923, *and the Indian Finance Act*, 1926.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878, to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax, to vary the excise duty on kerosene leviable under the Indian Finance Act, 1922, and further to amend the Indian Paper Currency Act, 1923, and the Indian Finance Act, 1926; it is hereby enacted as follows:—

Short title, extent and duration.

1. (1) This Act may be called THE INDIAN FINANCE ACT, 1930.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 3, 4-A and 5 shall remain in force only up to the 31st day of March, 1931.

Amendment of section 42, Act VIII of 1878.

2. In section 42 of the Sea Customs Act, 1878, after the words "seven-eighths" the words "or, in the case of silver bullion, the whole" shall be inserted.

3. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor-General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1930, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section. Fixation of salt duty.

4. The amendments specified in the First Schedule to this Act shall be made in Schedules II and III to the Indian Tariff Act, 1894. Amendment of Schedules II and III to Act VIII of 1894.

4-A. In Schedule II to the Indian Tariff Act, 1894,— Amendment of Schedule II, Act VIII of 1894.

(*a*) after Item No. 43-BB, as inserted by section 4, and under the head "METALS", the following item shall be inserted, namely:—

"43-B B B	SILVER PLATE, silver thread and wire (including so-called gold thread and wire mainly made of silver), silver leaf and silver manufactures, all sorts not otherwise specified.	*Ad valorem.*	38 per cent."

(*b*) in Part VI, under the head "METALS" the Item which reads "SILVER PLATE, silver thread and wire, silver leaf and silver manufactures, all sorts not otherwise specified", together with its serial number, shall be omitted.

5. With effect from the 1st day of April, 1930, the schedule contained in the Second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. Postal rates.

6. (1) Income-tax for the year beginning on the 1st day of April, 1930, shall be charged at the rates specified in Part I of the Third Schedule. Income-tax and super-tax.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1930, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule, "total income" means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

Amendment of section 5, Act XII of 1922.

7. In the proviso to section 5 of the Indian Finance Act, 1922, for the words "one anna" the words "one anna and six pies" shall be substituted.

Amendment of section 19, Act X of 1923.

8. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1930" the figures "1931" shall be substituted.

Repeal of section 7, Act XIX of 1926.

9. With effect from the 1st day of April, 1930, section 7 of the Indian Finance Act, 1926, shall be repealed.

SCHEDULE I.

Amendments to be made in Schedules II and III to the Indian Tariff Act, 1894.

[*See section* 4.]

1. In Item No. 19 of Schedule II, the words "nickel, bronze, and copper" shall be omitted.

2. In Item No. 20 of Schedule II, the words "and silver", in both places where they occur, shall be omitted.

3. For Item No. 34 of Schedule II, the following shall be substituted, namely:—

" 34	SUGAR, excluding confectionery (*see* No. 124)—		RS. A.
	(1) Sugar, crystallised or soft 23 Dutch Standard and above.	Cwt. ..	6 0
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard.	Cwt. ..	5 8
	(3) Sugar, below 8 Dutch Standard and sugar-candy.	*Ad valorem* ..	25 per cent. *plus* one rupee and eight annas per cwt.
	(4) Molasses	*Ad valorem* ..	25 per cent."

4. In Item No. 40 of Schedule II, for the words "six pies" the words "three pies" shall be substituted.

5. After Item No. 43-B of Schedule II, the following heading and item shall be inserted, namely:—

"METALS.

43-BB	SILVER BULLION and coin, not otherwise specified, and silver sheets and plates which have undergone no process of manufacture subsequent to rolling.	Ounce ..	Four annas."

6. Item No. 45 of Schedule II shall be omitted.

7. In Item No. 4 of Schedule III, for the figures "0 3" the words "Two annas and three pies" shall be substituted.

SCHEDULE II.

SCHEDULE TO BE INSERTED IN THE INDIAN POST OFFICE ACT, 1898.

[*See section* 5.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[*See section* 7.]

Letters.

For a weight not exceeding two and a half tolas ..	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna.

Postcards.

Single	Half an anna.
Reply	One anna.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof	Half an anna.

Registered Newspapers.

For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE III.

[*See section* 6.]

PART I.

RATES OF INCOME-TAX.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is less than Rs. 2,000.	*Nil.*
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Six pies in the rupee.

	Rate.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000.	Nine pies in the rupee.
(5) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000.	Ten pies in the rupee.
(6) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna and one pie in the rupee.
(7) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and four pies in the rupee.
(8) When the total income is Rs. 40,000 or upwards.	One anna and seven pies in the rupee.
B. In the case of every company and registered firm whatever its total income.	One anna and seven pies in the rupee.

PART II.

RATES OF SUPER-TAX.

	Rate.
In respect of the excess over fifty thousand rupees of total income—	
(1) in the case of every company ..	One anna in the rupee.
(i) in respect of the first twenty-five thousand rupees of the excess.	*Nil.*
(ii) for every rupee of the next twenty-five thousand	
(ii) for every rupee of the next twenty-five thousand rupees of such excess.	One anna and one pie in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess.	One anna and one pie in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the second fifty thousand rupees of such excess.	One anna and seven pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and one pie in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and seven pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas and one pie in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three annas and seven pies in the rupee.

	Rate.
(*vi*) for every rupee of the next fifty thousand rupees of such excess.	Four annas and one pie in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess.	Four annas and seven pies in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess.	Five annas and one pie in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess	Five annas and seven pies in the rupee.
(*x*) for every rupee of the remainder of the excess.	Six annas and one pie in the rupee.

THE TRANSFER OF PROPERTY (AMENDMENT) SUPPLEMENTARY ACT, 1930.

ACT NO. XVI OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons annexed to the Bill:—

"Clause (*o*) of rule 1, Order XLIII of the First Schedule to the Code of Civil Procedure, 1908, gives a right of appeal from an order passed under rule 3 or rule 8 of Order XXXIV refusing to extend time for the payment of mortgage money. By section 4 of the Transfer of Property (Amendment) Supplementary Act, 1929, the provisions of rules 3 and 8 regarding the extension of time will appear in rules 2 and 7; and the references in clause (*o*) of rule 1, Order XLIII, should be corrected accordingly.

In rule 4 of Order XXXIV of the Code of Civil Procedure, 1908, a provision has been inserted by the Transfer of Property (Amendment) Supplementary Act, 1929, making it clear that in the case of suits for sale a Court has power to extend the time for payment of the mortgage money. It is desirable that there should be a right of appeal against an order passed thereunder refusing an extension of time, as sub-rule (2) of rule 4 is identical in principle and almost identical in words with sub-rule (2) of rule 2 and sub-rule (2) of rule 7. Hence a reference to rule 4 is required in clause (*o*) of rule 1 of Order XLIII."—(*Statement of Objects and Reasons.*)

[*2nd April*, 1930.]

An Act to amend the Transfer of Property (Amendment) Supplementary Act, 1929, *for a certain purpose.*

WHEREAS it is expedient to amend the Transfer of Property (Amendment) Supplementary Act, 1929, for the purpose hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called THE TRANSFER OF PROPERTY (AMENDMENT) SUPPLEMENTARY ACT, 1930. Short title.

Insertion of new section 7-A in Act XXI of 1929.

2. After section 7 of the Transfer of Property (Amendment) Supplementary Act, 1929, the following section shall be inserted, namely:—

Amendment of rule 1 of Order XLIII, Schedule I, Act V of 1908.

"7-A. In clause (*o*) of rule 1 of Order XLIII of the First Schedule to the Code of Civil Procedure, 1908, for the words 'under rule 3 or rule 8' the words 'under rule 2, rule 4 or rule 7' shall be substituted."

THE COTTON TEXTILE INDUSTRY (PROTECTION) ACT, 1930.

ACT No. XVII OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons :—For several years the cotton textile industry though one of the oldest organized industries in India has been passing through a period of great difficulty. Since the war its internal organization has not been re-adjusted to an extent sufficient to enable to meet severe competition from other countries where organization has already taken place. The condition of the industry is, in fact, very much that contemplated by the Fiscal Commission when in paragraph 100 of their report they included in the category of industries to which protection might be granted an industry which, though not young, was suffering from some temporary deterioration or atrophy. From the evidence in the possession of Government it appears that during the last three years, and particularly in the last six months, the pressure of external competition has intensified, and that the cotton mill industry throughout India is depressed, though the extent of the depression varies at different centres. In Bombay Island, where in two successive years the mills have passed through prolonged and exhausting labour disputes, a stage has been reached when the continued existence of the industry is endangered. External competition is most severe in the class of plain grey goods which form a high proportion of the output of the Indian mills and particularly of those situated in Bombay Island. In these circumstances, emergency measures are called for in order to give the industry temporary shelter and time to reorganize itself and increase its efficiency. It appears further that the depression in the industry is due not to the competition of goods imported from the United Kingdom, but of goods imported from elsewhere.

2. In order to effect its object the Bill seeks to impose (*a*) a protective duty of 20 per cent. *ad valorem* on cotton piece-goods of all classes, and (*b*) a protective minimum specific duty of 3½ annas a pound on plain grey goods, these duties being applicable to goods not manufactured in the United Kingdom. Goods made in the United Kingdom will be subject only to the revenue duty. The specific minimum duty is required in order to afford adequate protection to the Indian mills in respect of that class of goods where external competition is most severe.

3. It is proposed that the protective duties should remain in force only for a period reasonably sufficient to enable the industry to reorganize itself. For this reason, the Bill fixes the 31st March, 1933, as the limit of the period within which the duties will operate. The 20 per cent. *ad valorem* duty will come into force as soon as the Bill becomes law, and the

date from which the minimum specific duty will take effect will be fixed by notification. This is necessary in order that shippers may have time to mark consignments of plain grey goods for weight.

4. The Bill also takes the opportunity to extend for a further period of three years the operation of the Indian Tariff (Cotton Yarn Amendment) Act, 1927. That Act was passed to meet competition from yarn produced in Japan under industrial conditions which were unfair by reason of the absence of any restriction on the night work of women in the mills. With the passing of the Japanese Factory Law of 1929 the unfair element in Japanese competition has disappeared. Meanwhile the total imports of twist and yarn from China increased from 945,000 lbs. in 1926-27 to 12¾ million lbs. in 1927-28 and to 11½ million lbs. in 1928-29, imports during the whole of the latter year having been subject to the specific minimum duty. The imports for the first nine months of the current financial year were 7½ million lbs. Until January of this year Chinese law placed no limit on the hours of work either of men or women, and no restriction on the employment of children. Information has very recently been received that on the 16th January, 1930, a law was promulgated in China which prohibits child labour and the night work of women, and limits the hours of work generally, but no evidence is forthcoming to show that any steps have been taken to make this law effective. In these circumstances, Chinese mills must still be regarded as possessing an unfair advantage justifying continuance of the minimum specific duty imposed in 1927."

[4th *April*, 1930.]

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, in order to protect the cotton textile industry in British India in respect of the manufacture of cotton piece-goods, and in order to continue for a further period the protection already given to that industry against competition in cotton yarn produced under industrial conditions which enable such yarn to be produced at a cost below that at which it can be produced in British India; it is hereby enacted as follows:—

Short title.

1. This Act may be called THE COTTON TEXTILE INDUSTRY (PROTECTION) ACT, 1930.

Amendment of the Second Schedule, Act VIII of 1894.

2. (1) After Item No. 156 of the Second Schedule to the Indian Tariff Act, 1894, the following heading and Item shall be inserted, namely:—

"YARNS AND TEXTILE FABRICS.

156-A	COTTON PIECE-GOODS (other than fents of not more than nine yards in length)— (*a*) plain grey, that is, not bleached or dyed in the piece, if imported in pieces which either are without woven headings or contain any length of more than nine yards which is not divided by transverse woven headings— (i) of British manufacture ..	*Ad valorem*..	15 per cent. or 3½ annas per pound, whichever is higher.

(ii) not of British manufacture ..	Ad valorem..	20 per cent. or 3 1/2 annas per pound, whichever is higher.
(b) others—		
(i) of British manufacture ..	Ad valorem..	15 per cent.
(ii) not of British manufacture ..	Ad valorem..	20 per cent."

(2) The amendment made by sub-section (1) shall have effect only up to the 31st day of March, 1933.

(3) The words "or 3½ annas per pound, whichever is higher" appearing in the fourth column of Item No. 156-A of the said Second Schedule, as inserted by sub-section (1), shall not have effect until such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

Amendment of the Second Schedule, Act VIII of 1894.

3. (1) In item No. 44 of the Second Schedule to the Indian Tariff Act, 1894, after the figure and words "5 per cent." the figure and words "or 1½ annas per pound whichever is higher" shall be added.

(2) The amendment made by this section shall have effect only up to the 31st day of March, 1933.

THE SILVER (EXCISE DUTY) ACT, 1930.

ACT No. XVIII OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons annexed to the Bill:—

The Indian Finance Bill introduced on the 28th February 1930 includes a proposal for the levy of a customs duty of four annas per ounce on silver bullion and coin. If this proposal is accepted, the effect will be to raise the internal price of silver, which will give a corresponding bounty to local producers of silver on so much of their output as is sold in India. This could be neglected when there was an import duty on silver bullion before, since the production of silver in India was then very small; but the position is now entirely different and one concern in Burma has an output of six to seven million ounces a year. It is therefore proposed to impose a countervailing excise duty on silver produced in India, power being taken to exempt any silver produced in India and exported out of India."—(*Statement of Objects and Reasons.*)

[*4th April,* 1930.]

An Act to provide for the imposition and collection of an excise duty on silver.

WHEREAS it is expedient to impose an excise duty on silver and to provide for the collection thereof; it is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE SILVER (EXCISE DUTY) ACT, 1930.

(2) It extends to the whole of British India.

Definition.

2. In this Act "silver works" means any place where silver is extracted from ore.

Imposition and collection of an excise duty on silver.

3. (1) There shall be collected at every silver works on all silver produced in such works, which is issued out of the premises of such works on and after the 17th day of March, 1930, a duty at the rate of four annas on each ounce.

(2) If any duty payable under sub-section (1) is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of the duty unpaid which such authority may in its discretion think it reasonable to require.

(3) Any arrear of duty, or any sum recoverable in lieu thereof under sub-section (2), shall be recoverable as an arrear of income-tax in any manner prescribed in section 46 of the Indian Income-tax Act, 1922.

Issue of silver from silver works.

4. (1) No person shall issue any silver out of the premises of any silver works except in accordance with the provisions of rules made under section 6 regulating such issue, or, until such rules are made, in accordance with the general or special orders of the Local Government.

(2) Whoever contravenes any such rule or order shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the duty on any silver issued in contravention of such rule or order, whichever is greater.

Application of the provisions of Act VIII of 1878 to the excise duty on silver.

5. The Governor-General in Council may, by notification in the *Gazette of India,* declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on silver imposed by section 3.

Power to make rules.

6. (1) The Governor-General in Council may, by notification in the *Gazette of India,* make rules—

(a) imposing on owners of silver works the duty of furnishing returns and keeping records and books, prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified,

and all such other conditions thereof as may be necessary;

(*b*) providing for the regulation of the issue of silver out of the premises of silver works;

(*c*) providing for the assessment of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable, and for the recovery of arrears;

(*d*) providing for the inspection of silver works; and

(*e*) generally, for carrying into effect the provisions of this Act.

(2) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees:

Provided that the breach of any rule made under clause (*b*) of sub-section (1) shall be punishable with the penalty prescribed in sub-section (2) of section 4.

THE INDIAN COMPANIES (AMENDMENT) ACT, 1930.

ACT No. XIX OF 1930.

PREFATORY NOTE:—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this amending Act:—

"One of the main objects in passing the Indian Companies Act, 1913, was to ensure that the accounts of companies are properly audited, and section 144 of the Act deals with the appointment and qualification of auditors. Under sub-sections (1) and (2) of this section, the Local Government is the statutory authority for the grant of certificates to persons entitling them to act as auditors of public companies and to make rules providing for the grant of such certificates. The proviso to sub-section (1) also empowers the Governor-General in Council to declare that the members of specified institutions or associations shall be entitled to be appointed and to act as auditors of companies throughout British India.

The existing arrangements were not intended to be more than temporary and transitional. It is doubtful whether the provisions of section 144 of the Indian Companies Act are in consonance with the classification of subjects under the existing constitution, and it is considered to be desirable that definite steps should now be taken to prepare a way for advance towards the ideal system of an autonomous association of accountants able to assume complete responsibility for the maintenance of the requisite standard of professional qualification, discipline and conduct of its members. Further, during the last few years a large increase has taken place not only in the number of joint stock companies in India, but also in the range of their activities, which frequently extend beyond the limits of a single province. Not only, therefore, is a high standard of professional qualification necessary but it is also necessary that this standard should be uniform throughout the country. With these objects in view the Government of India have caused the whole position to be re-examined and have prepared a comprehensive scheme, in consultation with Local Governments and commercial and other bodies interested. This scheme proposes to transfer the power to

grant auditors' certificates and to make rules for the grant of such certificates from the Local Government to the Governor-General in Council, and provides for the appointment of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy, to advise the Governor-General in Council on all matters concerning the grant of auditors' certificates and to assist him in maintaining the standards of qualification and conduct required of auditors. It also provides for the appointment of local accountancy boards at important centres for the purpose of advising the Indian Accountancy Board and the Governor-General in Council on any matters that may be referred to them.

The object of the Bill is to take the necessary power to give effect to this scheme. The more important changes which it is proposed to make in the law are:—

(1) the substitution in section 144 of the Governor-General in Council for the Local Government as the statutory authority for granting auditors' certificates and for making rules for the grant of such certificates; and

(2) the abolition of the power to allow members of specified societies to act as auditors without certificates.''—(*Statement of Objects and Reasons.*)

The following are extracts from the Report of the Select Committee:—

Clause 2.—We have added to proposed section 144 (2), a provision that the rules should provide for renewal and cancellation of certificates. At the same time we have deleted the reference to conditions and restrictions from proposed section 144 (2-B) which as it stood might have been interpreted as authorising territorial restrictions which we consider undesirable.

We have also inserted a proviso to the effect that certificates shall not be withheld merely because the applicant is not a regularly practising accountant. We do not consider that an otherwise qualified accountant should be debarred from auditing accounts simply on the ground that accountancy is not his sole occupation.

We are agreed that the first members of the Central and Local Advisory Boards should be nominated by the Governor-General in Council for a fixed period. We consider, however, that, on reconstitution, the Boards should contain a progressively increasing elected element. We have accordingly made slight amendments in proposed section 144 (2-A) (*e*) and (*f*) in order to render this possible.

Clause 3.—We consider that, in addition to the temporary safeguard afforded by this clause to persons entitled under the existing law to audit accounts, they should be entitled, on payment of the usual fee, to enrolment in the proposed register of accountants and have provided accordingly. This amendment will not exempt such persons from liability to removal from the register for misconduct, etc.—(*Report of the Select Committee.*)

[*4th April,* 1930.]

An Act further to amend the Indian Companies Act, 1913, *for certain purposes.*

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. (1) This Act may be called THE INDIAN COMPANIES (AMENDMENT) ACT, 1930. Short title and commencement.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

Amendment of section 144, Act VII of 1913.

2. In section 144 of the Indian Companies Act, 1913,—

(*a*) in sub-section (1),—

(*i*) for the words "Local Government" the words "Governor-General in Council" shall be substituted; and

(*ii*) for the proviso the following proviso shall be substituted, namely:—

"Provided that a firm whereof the partners all hold such certificates may be appointed by its firm-name to be auditor of a company, and may act in its firm-name."; and

(*b*) for sub-section (2) the following sub-sections shall be substituted, namely:—

"(2) The Governor-General in Council may, by notification in the *Gazette of India* and after previous publication, make rules providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation:

Provided that nothing contained in such rules shall preclude any person from being granted a certificate merely by reason that he does not practise as a public accountant.

(2-*A*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the maintenance of a Register of Accountants entitled to apply for such certificates;

(*b*) prescribe the qualifications for enrolment on the Register and the fees therefor;

(*c*) provide for the examination of candidates for enrolment, and prescribe the fees to be paid by examinees;

(*d*) prescribe the circumstances in which the name of any person may be removed from or restored to the Register;

(*e*) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise him on all matters of administration relating to accountancy, and to assist him in maintaining the standards of qualification and conduct of persons enrolled on the Register; and

(*f*) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the Governor-General in Council may select, to advise him and the Indian Accountancy Board on any matter that may be referred to them.

(2-*B*) The holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout British India."

3. (1) All certificates granted by Local Governments before the commencement of this Act entitling the holders, and all declarations made before the commencement of this Act by the Governor-General in Council entitling the members of any specified institution or association, to be appointed and to act as auditors of companies throughout British India shall be deemed to be cancelled on the expiry of one year from the commencement of this Act: Certificates granted before the commencement of this Act.

Provided that the Governor-General in Council may direct that any such certificate or declaration shall remain in force for a further period not exceeding one year:

Provided further that any person who—

(*a*) was entitled immediately before the commencement of this Act by reason of any such certificate or declaration to be appointed and to act as an auditor of companies throughout British India, and

(*b*) has at any time, after he became so entitled and before the commencement of this Act, resided in India,

shall, if he possesses such qualifications as to good character and on payment of such fee as may be prescribed under clause (*b*) of sub-section (2-*A*) of section 144 of the Indian Companies Act, 1913, be entitled to be enrolled on the Register of Accountants referred to in that sub-section.

(2) Persons holding restricted certificates granted by Local Governments before the commencement of this Act entitling them to act as auditors within a province may continue so to act, on such conditions as may be prescribed by the Governor-General in Council in rules made by notification in the *Gazette of India* and after previous publication.

THE DESTRUCTIVE INSECTS AND PESTS (AMENDMENT) ACT, 1930.

ACT No. XX OF 1930.

PREFATORY NOTE:—The following are extracts from the Statement of Objects and Reasons:—

The import into British India of any article or class of articles likely to cause infection to any crop is at present regulated by rules framed under

the Destructive Insects and Pests Act, 1914. The term 'import' as defined in that Act means the bringing or taking by sea or land. It does not include bringing or taking by air. The introduction of regular air mail services has introduced a new method of import which was not contemplated when the Act was passed and has created a new risk. This risk is especially grave in the case of such pests as the Mediterranean fruit fly, owing to the short time that may elapse between the loading of the infected material and its delivery in India. The Mediterranean fruit fly is not yet known to occur in India but has invaded South Africa, Australia, New Zealand and Hawaii and has proved a most serious pest of fruit and vegetables in those countries. The amendment of the Destructive Insects and Pests Act, 1914, which is now proposed will enable steps to be taken to prevent the introduction through the medium of air transport of this and other pests, more especially fruit pests which have not so far been found in India."—(*Statement of Objects and Reasons.*)

[*4th April*, 1930.]

An Act to amend the Destructive Insects and Pests Act, 1914, for a certain purpose.

WHEREAS it is expedient to amend the Destructive Insects and Pests Act, 1914, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title. 1. This Act may be called THE DESTRUCTIVE INSECTS AND PESTS (AMENDMENT) ACT, 1930.

Amendment of section 2, Act II of 1914. 2. In clause (*b*) of section 2 of the Destructive Insects and Pests Act, 1914, for the words "or land", the words "land or air" shall be substituted.

THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1930.

ACT NO. XXI OF 1930.

PREFATORY NOTE:—The following Report of the First Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes was presented to the Legislative Assembly on the 26th February 1929:—

We, the undersigned Members of the Select Committee to which the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us, annexed thereto.

Papers Nos. I to VII.

The Committee met on the 3rd and 5th March 1928, and the 1st and 2nd February 1929. Our deliberations have resulted in considerable alterations of the details of the Bill although not, we think, in its general principles. These alterations we now propose to refer to clause by clause omitting reference to minor alterations of a purely drafting nature.

Clause 3.—We have omitted the words "and assess it as if it were unregistered" as otiose. If the registration is cancelled, the firm can only be assessed as an unregistered firm,

Clause 4.—This clause we have found to require very careful consideration, and we have expended a considerable amount of time in the discussion of it.

As regards sub-section (1) of the proposed new section 23-A, we agree, in the first place, with those criticisms which point out that there may be perfectly genuine firms of which one member only is competent to bind the firm by his act, while, on the other hand, we consider that the sub-section as drafted could easily be evaded by an unwritten agreement or understanding under which a deed of partnership giving such powers to all the partners could be rendered a practical nullity and the actual power placed in the hands of one partner only. We further agree that it is very important that, as is provided in the case of companies in the English Act, the real purpose of the sub-section should be clearly stated and its provisions confined to cases where a firm or association has been formed and is used really and principally in order that one or more of its partners may evade the incidence of income-tax. Finally, we have added an *Explanation* to make it clear that firms such as are common in India in which one man puts up the whole or the major portion of the capital and is the principal partner in possibly a dozen or more firms with working partners associated with him, are not necessarily to be deemed to have been formed for the purpose of evasion. We think that the sub-section as now redrafted is a reasonable solution of the objections which have been taken to the original proposal.

As regards sub-section (2) of the proposed new section 23-A, we are convinced that the criteria contained in clauses (*a*), (*b*) and (*c*) of the sub-section as originally proposed would fail to achieve the desired object. These clauses would not in fact have limited the operation of the sub-section to private companies only because, as many of the objectors have failed to observe, the conditions were to be alternative and not cumulative. On the other hand, it would have been perfectly easy for any person to form a public company having none of these attributes and yet actually under the control of a single person. As in the case of sub-section (1), we are also impressed with the importance of having the real purpose of the enactment clearly stated in the body of the sub-section. After exhaustive discussions, therefore, we have adopted a sub-section which follows fairly closely, with necessary modifications, section 21 of the English Finance Act, 1922, as amended and amplified by section 31 (3) of the English Finance Act, 1927. The most important feature of the sub-section as now drafted is perhaps the proviso that it is not to apply to a company which is a subsidiary company or in which the public is substantially interested, and for the purpose of fixing the meaning of the latter expression we have formed the view that the definitions in the English Act are as satisfactory as it is possible in all the circumstances to devise.

We have further added to the new section 23-A three sub-sections. Sub-section (3) provides that any firm, association or company must be given an opportunity of being heard before orders are passed under the section. Sub-section (4) provides in the case of a firm or association that the additional tax payable by a member may, in default of payment by him, be recovered from the firm or association, and in the case where the individual members of a company have become liable to additional tax in respect of undistributed profits, that the proportionate part of tax payable on such undistributed profits shall be recoverable only from the company. Sub-section (5) provides that where undistributed profits have been included in the total income of individual members of a company they shall not, if they are subsequently distributed, be taxable again in the hands of the individual.

Clause 5 *of the Bill as amended* (*Clause* 9 *of the Bill as introduced*).—We consider that the definite provision which the Bill is to make for the

procedure in the matter of registration of firms would be more suitably inserted in the Income-tax Act as section 26-A rather than as section 39-A. As regards the subject-matter of the new section we have considered very carefully the provision originally made in sub-section (3) allowing an Income-tax Officer to refuse registration to any association of individuals which is in his opinion not a firm. We think, in the first place, that such a provision is unnecessary in view of the provisions of sub-section (1) of the new section 23-A which gives power to the Income-tax authorities to treat the members of a firm as individuals, ignoring the constitution of the firm as such, and of his undoubted power under the Act as it now stands to refuse registration to a concern which on the face of the deed of partnership is not a firm as defined in the Act. In addition to this we observe that there is undoubtedly a large body of opinion which holds that the sub-section would place in the hands of Income-tax Officers a power which, although it might not in actual practice be abused, is liable to be misconceived and thus to hamper and discourage the formation of perfectly genuine partnerships for business purposes. At the same time we realize that it should not be possible for persons to obtain registration of an enterprise as a registered firm which is in fact nothing more than a one-man concern and we think the object in view can be satisfactorily met by making provision for the verification of an application for registration and by imposing by an amendment of section 52 of the Act a penalty upon any one who makes a false verification. The result is a small amendment in sub-section (2) of the new section 26-A and of section 52 of the Act; and the omission of sub-section (3) of the new section.

Clause 6 (*Clause* 5 *of the Bill as introduced*).—We have agreed to this clause with one small drafting amendment.

Clause 7.—This clause is new. Clause 11 of the Bill as introduced provided a reference to the High Court on questions of fact as well as of law in cases where the income-tax authorities proceed against firms, associations and companies under the new section 23-A. Several of the High Courts have taken strong objection to this proposal. They point out that not only would this involve a great increase in the work of High Courts but also a new principle would be introduced into the law relating to the jurisdiction of High Courts by making it the arbiter of facts, a principle which might have serious repercussions in other branches of law. We are agreed that these objections are fatal to the original proposal and consider that the only possible alternative is to provide, as we do in this clause, for the reference of cases of this nature to Boards of Referees. The actual provisions governing the constitution and procedure of these Boards we propose to leave to rules, but as the matter is of great importance to the commercial community we desire to outline briefly the manner in which we think they should be constituted. We may here observe that the rules will, as in the case of other rules made under the Act, be made after previous publication. The outline of our proposals is as follows:—

(1) The members of each Board of Referees should be chosen from an All-India panel constituted and maintained by the Central Board of Revenue. It will be the duty of the Central Board of Revenue to appoint a number of persons from each province who are willing to serve on Boards of Referees and to appoint such number from each province as is proportionate to the size and commercial importance of the province.

(2) On receipt of an application by the Commissioner of Income-tax for the reference of a case to a Board of Referees he will appoint a Board consisting of three, four or five members according to the magnitude of the case and of the issues involved. He should be directed to avoid selection of persons likely to show bias either for or against the appellant and should carefully consider the risk of an appellant being

compelled to disclose the details of his business to a trade rival. Apart from this, although there will not be separate panels for each province, the Commissioners would normally choose a panel from those residing in the neighbourhood so as to avoid inconvenience and loss of time in travelling.

(3) The names selected by the Commissioner should be communicated to the appellant within one week, and the appellant should then be given a reasonable time, say 15 days, within which he may object, without giving reasons, to the inclusion of any name and at the same time may name not less than five members of the panel to whom he will not object. The Commissioner will then proceed to substitute a fresh name for any name to which objection has been taken, but he should not be bound by the list of names submitted by the appellant. If he takes a name from the appellant's list no objection to that name should be allowed. As regards any other names, the appellant should be allowed one more opportunity to raise objections. Thereafter, that is to say, in the case where the appellant has twice objected to a panel as proposed to be constituted by the Commissioner, the final composition of the Board should be settled by the Central Board of Revenue.

(4) The date and place of meeting of a Board should be fixed by the Commissioner of Income-tax after consulting the members.

(5) The members should elect a Chairman from among the non-official members of the Board and thereafter the procedure will be directed and controlled by him.

(6) The decision of a Board should be the decision of the majority of members present and signing the same. All members who are present should sign but any member should have the right to record a dissenting minute. In the case of an equality of votes the Chairman should have a casting vote and any decision which is signed by not less than half of the members should be deemed to be a valid decision. Provided these conditions are fulfilled, the absence of a member or his failure to sign the decision should not invalidate the proceedings.

(7) The scales of remuneration and allowances for members of Boards of Referees should be provided for in the rules.

Decisions of Boards of Referees are made final, subject to a reference (for which we provide in clause 10) to the High Court on points of law.

The only other point to which special reference is needed is the proviso to sub-section (3) of the proposed new section 33-A which enables the appellant to endeavour to obtain a decision in his favour from the Commissioner acting under his powers of revision and thus obviate the delay and possible inconvenience of a reference to a Board.

Clause 8.—This clause is, as already noticed, consequential in part upon the amendment which we have made in sub-section (2) of the proposed new section 26-A, and also contains a penalty for false verification of an appeal to a Board of Referees. (See sub-section (2) of new section 33-A.)

Clause 10.—We have already explained this clause in our remarks upon clause 7.

3. As we stated in the opening part of our Report, the Bill has not been essentially altered in principle, but the radical alterations in detail which we have made in clause 4 and the substitution of Boards of Referees as appellate tribunals in place of the High Courts undoubtedly raise questions which require the fullest consideration. We therefore, as required by sub-order (4) of Standing Order 41, record our opinion that the Bill has been so altered as to require republication.—(*Report of First Select Committee.*)

The following are extracts from the Report of the Second Select Committee on the Bill further to amend the Indian Income-tax Act, 1922:—

Clause (3).—We have amended this clause in order to provide that the registration of a firm shall not be cancelled until it has been served with a notice of the Income-tax Officer's intention and has had an opportunity to appear before him and show cause against the cancellation.

Clause (4).—In sub-section (1) of proposed section 23-A we have made a drafting amendment in order to bring the wording into line with the wording used in section 23, to which this new section will be supplementary. A similar amendment is made in sub-section (2).

We have amended sub-section (2) further, for two distinct purposes. The first insertion we have made expands the words relating to the "reasonable needs existing and contingent" of the business, and are designed to place it beyond doubt that accumulations made by a company as a matter of sound financial practice or in order to make provision for the development of its genuine business, shall not come within the scope of the sub-section.

The second insertion is intended to cover cases where companies of the kind contemplated in the sub-section do not accumulate their profits as such, but capitalise them and distribute them among their members as bonus shares, with intent to avoid payment of income-tax. This device would have defeated the purpose of the sub-section as it stood.

In Explanation (*c*) of proposed sub-section (2) we have made a small drafting amendment, in order to place it beyond doubt that the company will be entitled, if it can do so, to rebut the presumption set up by that Explanation.

In proposed sub-section (4), clause (*ii*), we have made an amendment to secure that the tax in these cases can be recovered from the member himself if the company conceals its assets or goes into liquidation and thus makes the remedy against itself ineffective.

We have also added a new clause (*iii*) which will apply the machinery for recovery contained in Chapter VI of the Act to sums to be recovered from associations under this new section.

Clause 5.—We have not amended this clause, as we have been assured that the intention of Government is that the rules to be made under sub-clause (2) will relate to procedure only, and will not confer upon Income-tax Officers any arbitrary power to refuse registration.

Clause 6.—While this Bill has been under discussion, the Indian Income-tax (Amendment) Act, 1928, has been passed into law. This Act has amended section 26 so as to provide that where a change has occurred in the constitution of a firm, the assessments on the firm and on the members thereof shall be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment. When this provision is applied to registered firms, it will be seen that the present draft of sub-section (2) of proposed section 28 is imperfect, as it has regard only to the deed of partnership registered at the time of making the assessment; whereas the profits may have been, or should have been, distributed, in whole or in part, in accordance with the registered instrument of the previous year. We have made two amendments to cover cases of this kind.

Clause 7.—The amendment in sub-section (1) of proposed section 33-A will have the effect of extending the period of limitation, and will give the intending appellant a complete month from the date on which he learns of the adverse order.

In sub-section (6) also we have made two amendments. The first deletes the provision which requires that the chairman of a Board must be a non-official. We contemplate that senior judicial officers may be members of these Boards, and it is possible that in some cases it might be desirable to have an experienced judge as chairman of the Board. We

are assured that the rules to be made governing the procedure of Boards will provide that the Board may elect its own chairman. On this assurance, we think it preferable to leave the discretion of the Board unfettered, having particular regard to the fact that there can never be a majority of official members on any Board.

The second amendment will meet the varying conditions of the different provinces, for in some a judicial officer does not attain the rank of Subordinate Judge until he is on the point of retirement, while in others he is given the title of Subordinate Judge as soon as he is appointed to the Provincial Judicial Service. Our amendment secures that these persons shall be officers of the Judicial Services, with not less than ten years' judicial experience.

We have considered the remarks of the Bombay Chamber of Commerce in regard to the clause, to the effect that executive instructions should be issued to secure that there shall be no risk of an assessee having to disclose the details of his business to a trade rival who may be appointed as a member of the Board of Referees trying the assessee's appeal. We are of opinion that the danger will be avoided if the recommendations made under clause 7 in the Report of the First Select Committee on this Bill are carried out, and we propose no further action by the Legislature; but we take the opportunity of strongly endorsing those recommendations, which we consider essential to the proper working of the system of Boards of Referees.

New clause 8.—We have inserted a new clause 8 which is intended to make the machinery for recovery of tax apply to demands made under the new section 23-A. We have re-numbered the succeeding clauses.

Clause 11.—In this clause, as re-numbered, we have made a small drafting amendment.—(*Report of Second Select Committee.*)

[*4th April*, 1930.]

An Act further to amend the Indian Income-tax Act, 1922, *for certain purposes.*

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; it is hereby enacted as follows:—

1. (1) This Act may be called THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1930. Short title and commencement.

(2) It shall come into force on the 1st day of April, 1930.

2. In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act),— Amendment of section 2, Act XI of 1922.

(*a*) after clause (6) the following clause shall be inserted, namely:—

"(6-A) 'firm', 'partner' and 'partnership' have the same meanings respectively as in the Indian Contract Act, 1872"; and

(*b*) for clause (14) the following shall be substituted, namely:—

"(14) 'registered firm' means a firm registered under the provisions of section 26-A;"

Amendment of section 23, Act XI of 1922.

3. In sub-section (4) of section 23 of the said Act,—

(*a*) after the word "judgment" the words "and, in the case of a registered firm, may cancel its registration" shall be added; and

(*b*) the following proviso shall be added, namely:—

"Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration".

Insertion of new section 23-A in Act XI of 1922.

4. After section 23 of the said Act the following section shall be inserted, namely:—

Power to assess individual members of certain firms, associations and companies.

"23-A. (1) Where the Income-tax Officer is satisfied that any firm or other association of individuals carrying on any business, other than a Hindu undivided family or a company, is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to tax of any member thereof, he may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the firm or association shall not be determined, and thereupon the share of each member in the profits and gains of the firm or association shall be included in his total income for the purpose of his assessment thereon.

Explanation.—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) Where the Income-tax Officer is satisfied that a company is under the control of not more than five of its members and that its profits and gains are allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members, or that a reasonable part of its profits and gains, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of tax upon any of the members in respect of their shares in the profits and gains so accumulated or not distributed, the Income-

tax Officer may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the company shall not be determined, and thereupon the proportionate share of each member in the profits and gains of the company, whether such profits and gains have been distributed to the members or not, shall be included in the total income of such member for the purpose of his assessment thereon:

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

Explanation.—For the purpose of this sub-section,—

(*a*) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub-section apply or of two or more companies none of which is a company to which those provisions apply;

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are in fact freely transferable by the holders to other members of the public;

(*c*) unless the contrary is proved, a company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or of relatives or nominees of those persons;

(*d*) "nominee" means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person.

(3) The Assistant Commissioner shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section until he has

given the firm, association or company concerned an opportunity of being heard.

(4) (*i*) Where any member of a firm or association of individuals makes default in the payment of tax on his share of profits and gains which has been included in his total income under the provisions of sub-section (1), such tax may be recovered from the firm or association, as the case may be.

(*ii*) Where the proportionate share of any member of a company in the undistributed profits and gains of the company has been included in his total income under the provisions of sub-section (2), the tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(*iii*) Where tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

(5) Where tax has been paid in respect of any undistributed profits and gains of a company under this section, and such profits and gains are subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total income of that year."

Insertion of new section 26-A in Act XI of 1922.

5. After section 26 of the said Act the following section shall be inserted, namely:—

Procedure in registration of firms.

"26-A. (1) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed."

6. For section 28 of the said Act the following section shall be substituted, namely:—

Amendment of section 28, Act XI of 1922.

Penalty for concealment of income or improper distribution of profits.

"28. (1) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of the income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income.

(2) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made under sub-section (1) or sub-section (2), unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) An Assistant Commissioner or a Commissioner, who has made an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer."

7. After section 33 of the said Act the following section shall be inserted, namely:—

Insertion of new section 33-A in Act XI of 1922.

Reference to Board of Referees.

"33-A. (1) Any person aggrieved by an order of an Income-tax Officer under sub-section (1) or sub-section (2) of section 23-A may, within thirty days of the date on which he was served with notice of such order, lodge an appeal in the office of the Commissioner.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The Commissioner shall refer such appeal, with a statement of his own opinion thereon, to a Board of Referees for decision; and the Board of Referees shall decide the appeal after hearing the appellant and any person deputed by the Commissioner:

Provided that, before making a reference to a Board of Referees, the Commissioner may, and at the request of the appellant shall, in exercise of his powers of revision under section 33, decide the matters in dispute, and thereupon the assessee may withdraw his appeal or proceed with it.

(4) The decision of the Board of Referees shall be forwarded to the Commissioner who shall transmit it to the Income-tax Officer who passed the original order, and shall also send copies to each Income-tax Officer who has made any assessment consequent upon such order; and where a decision reverses or modifies the order of the Income-tax Officer, fresh assessments shall be made in accordance therewith, or such consequential adjustments as may be required shall be made in any assessment already made.

(5) The decision of a Board of Referees shall not be subject to appeal to any Income-tax authority, and shall not be revised by the Commissioner in exercise of his powers under section 33.

(6) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having business experience, and one shall be a judicial officer not inferior in rank to a Subordinate Judge or a Judge of a Small Cause Court who has held judicial office for a period of not less than ten years.

(7) Subject to the provisions of sub-section (6), the Central Board of Revenue may make rules regulating the formation, composition and procedure of Boards of Referees."

Amendment of section 45, Act XI of 1922.

8. In section 45 of the said Act,—

(a) after the words "notice of demand" the words and figures "under sub-section (4) of section 23-A or" shall be inserted; and

(b) after the word and figures "section 30" the words and figures "or under section 33-A" shall be inserted.

9. In section 52 of the said Act, after the word and figures "section 22" the words and figures "or sub-section (2) of section 26-A" shall be inserted, and after the word and figures "section 32" the words and figures "or sub-section (2) of section 33-A" shall be inserted. Amendment of section 52, Act XI of 1922.

10. In sub-section (2) of section 54 of the said Act, after the first proviso the following proviso shall be inserted, namely:— Amendment of section 54, Act XI of 1922.

"Provided, further, that nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 26-A, or to the giving of evidence by a public servant in respect thereof."

11. In sub-section (2) of section 66 of the said Act,— Amendment of section 66, Act XI of 1922.

(a) after the word and figures "section 32", the words and figures "or of a decision by a Board of Referees under section 33-A" shall be inserted; and

(b) after the word "order", in the second and third places where it occurs, the words "or decision" shall be inserted.

THE INDIAN INCOME-TAX (SECOND AMENDMENT) ACT, 1930.

ACT NO. XXII OF 1930.

PREFATORY NOTE:—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this Act:—

"This Bill is designed to bring together a number of minor amendments relating mostly to points of machinery and administration and not designed to affect the incidence of taxation except by granting relief in two cases of hardship, neither of which is of major importance in practice (*see* clauses 2 and 10). Detailed explanations are as set forth below:—

Clause 2.—This remedies a defect in the Act and expressly provides for the relief from double taxation of a member of an association of individuals other than a firm or company or Hindu undivided family.

Clause 3.—This is a drafting amendment intended to set right a mistake in drafting the original section, as a consequence of which it had become largely inoperative.

Clause 4.—This is also a drafting amendment intended to amplify the section and make its provisions quite clear and complete.

Clause 5.—This is necessitated by a ruling of the Calcutta High Court to the effect that, in the absence of any reference to section 196

of the Indian Penal Code in section 37 of the Indian Income-tax Act, no prosecution may be launched under section 196 of the Indian Penal Code in respect of false evidence *used* in Income-tax proceedings.

Clause 6.—Arrears of income-tax can be recovered under section 46 as arrears of land revenue. But in at least two provinces the Acts relating to the recovery of arrears of land-revenue do not permit the attachment of debts for the purpose of recovering the arrears. It is proposed, therefore, to restore to the Income-tax Officer the power which he possessed under the Act of 1886. If found necessary, executive instructions will be issued that the power proposed to be given shall be exercised by the Income-tax Officer only in those provinces in which it is not permissible, under the law relating to the recovery of arrears of land-revenue, to attach debts.

Clause 7.—The clause is intended to provide for the grant of refunds under section 48 through the High Commissioner in the United Kingdom. This means reversion to the practice which was discontinued in 1926. Complaints have been received of inconvenience to residents in the United Kingdom who have to apply for relief.

Clause 8.—The object of sub-clause (*a*) is to regularise a concession now given by executive orders. The object of sub-clause (*b*) is to provide for cases of hardship which sometimes occur.

Clause 9.—Proviso (*a*) to section 54, as it stands at present, might have the effect of seriously hampering or defeating a prosecution by the Crown in respect, for instance of falsified accounts or stolen documents. It also prevents the Income-tax Department from prosecuting offences under sections 182 and 196 of the Indian Penal Code. So long as the restriction is imposed that the prosecution under the Indian Penal Code can only be in respect of the statements, returns, accounts, documents, evidence, affidavits or depositions referred to in section 54 of the Income-tax Act, there is no reason why the prosecution should be limited to section 193 of the Indian Penal Code only, as at present.

Clause 10.—This is intended to provide for cases of hardship which occur occasionally.

Clause 11.—The object of this clause is to prohibit the appearance in Income-tax proceedings of certain undesirable persons who, calling themselves Income-tax experts, impose on assessees.

Clause 12.—The period of one month is being extended because it has been found in practice to be insufficient.

Clause 13.—This amendment is being made in accordance with a promise given in the Assembly.—(*Statement of Objects and Reasons.*)

The following are extracts from the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922:—

Clause 3.—We have accepted this clause, but its examination has brought out the fact that there may be doubt if an order of an Income-tax Officer under section 25-A is appealable. It may be held that these orders could be reviewed in an appeal under section 30 against the resulting assessment, but we think it safer to take the opportunity now of securing beyond doubt that an appeal shall lie. We have done this by inserting a new clause 4, which amends section 30 in the sense indicated.

We have re-numbered clauses 4 and 5 accordingly.

Old clause 6.—This clause proposed to give powers to Income-tax Officers to attach and sell debts due to assessees. The Statement of Objects and Reasons mentioned that the intention of Government was to instruct Income-tax Officers not to use these powers in any province where the Collector of Land Revenue himself could exercise them. However,

during our discussion doubt was raised whether these powers could be exercised by Collectors of Land Revenue in any province, and we do not feel sure of the precise scope of the proposal contained in the clause. We have accordingly deleted it and recommend that the matter should be further investigated, and brought up again in some future amending Bill, should there appear to be need for it.

Clause 8.—In sub-clause (*a*) we have added some words to make it clear that the person claiming a refund will have the option of choosing that one of the alternative periods of limitation now provided which better suits him.

In sub-clause (*b*) we have made provision whereby a specially empowered Assistant Commissioner will be able to admit claims for refund after the expiry of the period of limitation. We have done this for considerations of convenience in outlying areas like Sind.

Old clause 11.—This important clause related to restrictions to be imposed upon persons entitled to appear on behalf of others in Income-tax proceedings. Clearly the restrictions proposed went too far, and public opinion, on the whole, is strongly against them. We discussed at length various suggestions to achieve the object in view, namely, to exclude undesirables from practising before Income-tax Officers. We are agreed that some system of control, as by the licensing or registration of Income-tax Agents, is desirable, but we do not feel that we are in a position to formulate any definite scheme which would be certain to command general acceptance. In these circumstances, even if we could settle on a definite proposal, we should consider that it was necessary for it to be circulated for opinion. We therefore recommend that the various suggestions made in this Committee should be further considered by Government and that definite proposals should be formulated thereon and circulated for opinion before legislation is undertaken on this important subject. Accordingly, we have deleted clause 11 and renumbered the remaining two clauses.

[*4th April,* 1930.]

An Act further to amend the Indian Income-tax Act, 1922, *for certain purposes.*

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called THE INDIAN INCOME-TAX (SECOND AMENDMENT) ACT, 1930. Short title.

2. In sub-section (2) of section 14 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act),— Amendment of section 14, Act XI of 1922.

(*a*) in clause (*b*), after the word "assessment" the word "or" shall be added; and

(*b*) the following clause shall be added, namely:—

"(*c*) any sum which he receives as his share of the profits or gains of an association of individuals, other than a Hindu undivided family, company or firm, where such profits or gains have been assessed to income-tax."

Amendment of section 25-A Act XI of 1922.

3. In section 25-A of the said Act,—

(*a*) in sub-section (1),—

(*i*) after the word "hitherto" the words "assessed as" shall be inserted, and

(*ii*) the words "before the end of the previous year" shall be omitted; and

(*b*) the following sub-section shall be added, namely:—

"(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family."

Amendment of section 30, Act XI of 1922.

4. In section 30 of the said Act, after the word and figures "section 25", the words, figures and letter "or section 25-A" shall be inserted.

Amendment of section 31, Act XI of 1922.

5. In sub-section (3) of section 31 of the said Act,—

(*a*) after the words "thereupon proceed to make such fresh assessment," the following shall be inserted, namely:—

"or, in the case of an order refusing to make a fresh assessment under section 27,

(*c*) confirm such order, or cancel it and direct the Income-tax Officer to make a fresh assessment,"; and

(*b*) clause (*e*) shall be re-lettered as clause (*d*).

Amendment of section 37, Act XI of 1922.

6. In section 37 of the said Act, after the figures "228" the words and figures "and for the purposes of section 196" shall be inserted.

Amendment of section 48, Act XI of 1922.

7. In sub-sections (1), (2) and (3) of section 48 of the said Act, after the words "Income-tax Officer" the words "or other authority appointed by the Governor-General in Council in this behalf" shall be inserted.

Amendment of section 50, Act XI of 1922.

8. In section 50 of the said Act,—

(*a*) after the word "recovered" the words "or before the last day of the financial year commencing after the expiry of the previous year, as defined in clause (11) of section 2, in which the income arose on which the tax was recovered, whichever period may expire later" shall be added; and

(*b*) the following proviso shall be added, namely:—

"Provided that a claim to refund under section 49 may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially

empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period."

9. In clause (*a*) of the first proviso to sub-section (2) of section 54 of the said Act, the words and figures "section 193 of" shall be omitted.

Amendment of section 54, Act XI of 1922.

10. Section 60 of the said Act shall be numbered as sub-section (1) of section 60, and the following sub-section shall be added, namely:—

Amendment of section 60, Act XI of 1922.

"(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, his income is assessed at a rate higher than that at which it would otherwise have been assessed; the Governor-General in Council may grant such relief as he may think fit."

11. In sub-section (2) of section 66 of the said Act,—

Amendment of section 66, Act XI of 1922.

(*a*) for the words "within one month of the passing of an order under section 31 or section 32" the words "within sixty days of the date on which he is served with notice of an order under section 31 or section 32" shall be substituted;

(*b*) for the words "one month" in the second place where they occur, the words "sixty days" shall be substituted.

12. After section 67 of the said Act the following section shall be inserted, namely:—

Insertion of new section 67-A in Act XI of 1922.

Computation of periods of limitation.

"67-A. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded."

THE INDIAN INCOME-TAX (THIRD AMENDMENT) ACT, 1930.

ACT No. XXIII OF 1930.

PREFATORY NOTE:—The following extracts from the Statement of Objects and Reasons would show the circumstances under which the Act was passed:—

It has been held by a High Court that bonus, commission or other remuneration paid by an employer to an employee cannot be treated as a business expense and deducted from the employer's income in assessing it to income-tax if the amount of such bonus is dependent on the amount of the profits.

2. At the same time such payments are assessable to income-tax in the hands of the recipients. They are thus liable to double taxation.

3. Under section 60 the Government of India have therefore exempted such payments from income-tax in the hands of the employee where they cannot legally be deducted in assessing the income of the employer, subject to certain conditions.

4. It has been pointed out, however, that apart from technicalities such payments, if they represent genuine remuneration of an employee for services rendered, are rightly to be regarded as business expenses, and that the refusal to allow their deduction as such may cause hardship.

5. It is therefore proposed to amend the law so as to permit the deduction of such payments from the employer's income as a business expense. The Bill provides for this amendment with the safeguards necessary to obviate any abuse.

[4th April, 1930.]

An Act further to amend the Indian Income-tax Act, 1922, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title. 1. This Act may be called THE INDIAN INCOME-TAX (THIRD AMENDMENT) ACT, 1930.

Amendment of section 10, Act XI of 1922. 2. In sub-section (2) of section 10 of the Indian Income-tax Act, 1922, after clause (*viii*), the following clause shall be inserted, namely:—

"(*viii-a*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission:

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(*a*) the pay of the employee and the conditions of his service;

(*b*) the profits of the business for the year in question; and

(*c*) the general practice in similar businesses;".

PRINTED AT THE MADRAS LAW JOURNAL PRESS, MYLAPORE, MADRAS.

THE INDIAN LAC CESS ACT, 1930.

ACT No. XXIV OF 1930.

[25th July, 1930.

An Act to provide for the creation of a fund for the improvement and development of the cultivation, manufacture and marketing of Indian lac.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the cultivation, manufacture and marketing of Indian lac; it is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called THE INDIAN LAC CESS ACT, 1930.

(2) It extends to the whole of British India, except Aden.

(3) It shall come into force on such date as the Governor-General-in-Council may, by notification in the *Gazette of India*, appoint.

Definitions.

2. In this Act—

(*a*) "Collector" means a Custom-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878;

(*b*) "Committee" means the Indian Lac Cess Committee constituted under section 4;

(*c*) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

(*d*) "lac cess" means the customs duty imposed by S. 3.

Imposition of lac cess.

3. There shall be levied and collected on all lac and refuse lac produced in India and exported from any customs port to any port beyond the limits of British India or to Aden a cess at the rate of four annas per maund in the case of lac, and two annas per maund in the case of refuse lac, or at such lower rate as the Governor-General-in-Council may, on the recommendation of the Committee, by notification in the *Gazette of India*, prescribe.

Constitution of the Indian Lac Cess Committee.

4. (1) The Governor-General-in-Council shall constitute a committee consisting of the following members to receive and expend the proceeds of the cess:—

(*i*) the Vice-Chairman of the Imperial Council of Agricultural Research, *ex-officio*;

(*ii*) the Inspector-General of Forests, *ex-officio*;

(*iii*) the Forest Entomologist, Dehra Dun, *ex-officio*;

(*iv*) the Imperial Entomologist, *ex-officio*;

(*v*) the Conservator of Forests, Bihar and Orissa, *ex-officio*;

(*vi*) the Director of Agriculture, Bihar and Orissa, *ex-officio*;

(*vii*) the Director of the Lac Research Institute, Nankum, *ex-officio*;

(*viii*) three persons representing the shellac manufacturing industry, one to be nominated by the Bengal Chamber of Commerce, one by the Calcutta Shellac Brokers' Association, and one by the Shellac Traders' Association, Mirzapur;

(*ix*) one representative of the shellac export trade nominated by the Bengal Chamber of Commerce;

(*x*) one representative of the brokers of lac and shellac in Calcutta nominated by the Calcutta Shellac Brokers' Association;

(*xi*) five persons representing the lac cultivators' interests in Bengal, Bihar and Orissa, the United Provinces, the Central Provinces and Assam, one to be nominated by each of the Local Governments of those provinces:

Provided that, if, within the period prescribed in this behalf, or, in the case of first nominations under this Act, within a reasonable time, any authority or body fails to make any nomination which it is entitled to make under this section, the Governor-General-in-Council may himself nominate a member to fill the vacancy.

(2) The Vice-Chairman of the Imperial Council of Agricultural Research shall be *ex-officio* President of the Committee.

(3) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the Governor-General-in-Council.

(4) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the Governor-General-in-Council may, on the recommendation of the authority or body which would have been entitled to make the nomination if it had been a first nomination under sub-section (1), or where such recommendation is not made within the prescribed period, then on his own initiative nominate a person to fill the vacancy.

(5) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Incorporation of the Committee.

5. The Committee so constituted shall be a body corporate by the name of the Indian Lac Cess Committee, having perpetual succession and a common seal, with power to acquire and hold

property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

6. (1) At the close of each month or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Committee. Application of the lac cess.

(2) The said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, subject to the control of the Governor-General-in-Council, decide to undertake for the improvement and development of methods of cultivation, manufacture and marketing of Indian lac.

7. The Governor-General-in-Council may by notification in the *Gazette of India*, declare that, with effect from such date, as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed. Dissolution of the Committee

8. (1) The Governor-General-in-Council may, after consulting the Committee and after previous publication, make rules to carry out the purposes of this Act. Power of Governor-General-in-Council to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the time within which nominations shall be made under section 4;

(*b*) prescribe the term of office of the members of the Committee;

(*c*) prescribe the circumstances in which and the authority by which any member may be removed;

(*d*) provide for the holding of a minimum number of meetings of the Committee during any year;

(*e*) provide for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Governor-General in Council;

(*f*) define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee to enter into contracts which shall be binding on the Committee and the manner in which such contracts shall be executed;

regulate the travelling allowances of members of the Committee and their remuneration, if any;

define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee in respect of the ap-

pointment, promotion and dismissal of officers and servants of the Committee and in respect of the creation and abolition of appointments of such officers or servants;

(*i*) regulate the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;

(*j*) regulate the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;

(*k*) provide for the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee;

(*l*) regulate the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

(*m*) define the powers of the Committee, the Standing Executive Sub-Committee (if any), the President of the Committee, the Director of the Lac Research Institute and the Secretary to the Committee, respectively, in regard to the expenditure of the fund[illegible] of the Committee, whether provision has or has [illegible] been made in the budget estimates or by re-ap[illegible] priation for such expenditure, and in regar[illegible] the re-appropriation of estimated savings i[illegible] budget estimates of expenditure;

(*n*) regulate the maintenance of accounts of the [illegible] and expenditure of the Committee and pr[illegible] the audit and publication of such accoun[illegible]

(*o*) prescribe the manner in which payments [illegible] made by or on behalf of the Committ[illegible] officers by whom orders for making de[illegible] vestments or disposal of the funds of t[illegible] shall be signed;

(*p*) determine the custody in which the cu[illegible] of the Committee shall be kept, and [illegible] banks at which surplus monies at the [illegible]

Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested.

(q) prescribe the preparation of a statement showing the sums allotted to the provincial Departments of Forests or of Agriculture or to institutions or authorities not under the direct control of the Committee for expenditure on schemes relating to the cultivation, manufacture or marketing of lac, the actual expenditure incurred, the outstanding liabilities if any, and the disposal of unexpended balances at the end of the year; and

(r) regulate the assessment, levy and payment of the lac cess.

Power of the Committee to make rules.

9. The Committee may, with the previous sanction of the Governor-General-in-Council, make rules consistent with this Act and with the rules made under section 8 to provide for all or any of the following matters, namely:—

(a) the appointment of a Standing Executive Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee;

(b) the method of appointment, removal and replacement and the term of office of members of the Standing Executive Sub-Committee and the filling of vacancies therein;

(c) the appointment of the dates, times and places for meetings of the Committee and the Standing Executive Sub-Committee, and the regulation of the procedure to be observed at such meetings;

(d) the determination of the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case;

(e) the determination of the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability;

(f) the contribution to be paid from the funds of the Committee to the provident fund;

generally, all matters incidental to the provident fund and the investment thereof;

(g) the defining of the powers and duties of the Secretary of the Committee.

Publication of rules.

(h) rules made under section 8 or section 9 shall be the *Gazette of India*.

Repeal.

Indian Lac Cess Act, 1921, is hereby repealed.

Dissolution of the Indian Lac Association for Research.

12. Notwithstanding anything contained in the Societies Registration Act, 1860, the Indian Lac Association for Research is hereby dissolved, and all monies and properties vested in it are hereby transferred to the Committee, subject to the payment of any outstanding claims incurred by the said Association under the Indian Lac Cess Act, 1921.

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 1930.

ACT No. XXV OF 1930.

[25*th July*, 1930.

An Act further to amend the Negotiable Instruments Act, 1881, *for a certain purpose.*

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 1930.

Insertion of new section 85-A in Act XXVI of 1881.

2. After section 85 of the Negotiable Instruments Act, 1881, the following section shall be inserted, namely:—

Drafts drawn by one branch of a bank on another payable to order.

"85-A. Where any draft, that is, an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be endorsed by or on behalf of the payee, the bank is discharged by payment in due course."

THE INDIAN FOREST (AMENDMENT) ACT, 1930.

ACT No. XXVI OF 1930.

[25*th July*, 1930.

An Act to amend the Indian Forest Act, 1927, *for a certain purpose.*

WHEREAS it is expedient to amend the Indian Forest Act, 1927, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called THE INDIAN FOREST (AMENDMENT) ACT, 1930.

Amendment of section 2, Act XVI of 1927.

2. In sub-clause (*a*) of clause (4) of section 2 of the Indian Forest Act, 1927, after the word "seeds" the word "kuth" shall be inserted.

THE INDIAN TELEGRAPH (AMENDMENT) ACT, 1930.

ACT No. XXVII OF 1930.

[25th July, 1930.

An Act further to amend the Indian Telegraph Act, 1885, *for a certain purpose.*

WHEREAS it is expedient further to amend the Indian Telegraph Act, 1885, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title. 1. This Act may be called THE INDIAN TELEGRAPH (AMENDMENT) ACT, 1930.

Amendment of section 4, Act XIII of 1885. 2. In clause (*a*) of the second proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885, after the word "waters" the words "and on aircraft within or above British India, or Indian territorial waters", shall be inserted.

THE BOMBAY CIVIL COURTS (AMENDMENT) ACT, 1930.

ACT No. XXVIII OF 1930.

[25th July, 1930.

An Act further to amend the Bombay Civil Courts Act, 1869, *for a certain purpose.*

WHEREAS it is expedient further to amend the Bombay Civil Courts Act, 1869, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title. 1. This Act may be called THE BOMBAY CIVIL COURTS (AMENDMENT) ACT, 1930.

Amendment of section 26, Act XIV of 1869. 2. In section 26 of the Bombay Civil Courts Act, 1869, the words "of the first class in the exercise of his ordinary and special original jurisdiction" shall be omitted.

THE BENARES HINDU UNIVERSITY (AMENDMENT) ACT, 1930.

ACT No. XXIX OF 1930.

[25th July, 1930.

An Act further to amend the Benares Hindu University Act, 1915, *for certain purposes.*

WHEREAS it is expedient further to amend the Benares Hindu University Act, 1915, for the purposes hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called THE BENARES HINDU UNIVERSITY (AMENDMENT) ACT, 1930.

Amendment of section 7 Act XVI of 1915.

2. In section 7 of the Benares Hindu University Act, 1915 (hereinafter referred to as the said Act),—

(a) for the words "the Pro-Chancellor" the words "the Pro-Chancellors, of whom there shall be two" shall be substituted; and

(b) after item VIII the following item shall be inserted, namely:—

"VIII-A. The Standing Finance Committee."

Amendment of section 12, Act XVI of 1915.

3. In sub-section (1) of section 12 of the said Act, for the word "seventeen" the word "twenty" shall be substituted.

Insertion of new section 16-A in Act XVI of 1915.

4. After section 16 of the said Act, the following section shall be inserted, namely:—

Pension or Provident Fund.

"16-A. The University shall constitute for the benefit of its officers, teachers and other servants such pension or provident fund as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes."

Amendment of section 17, Act XVI of 1915.

5. In section 17 of the said Act,—

(a) in sub-section (1)—

(i) in clause (a), after the word "Syndicate" the words "The Standing Finance Committee" shall be inserted;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(cc) the constitution of a pension or provident fund for the benefit of the officers, teachers and other servants of the University"; and

(iii) in clause (d), after the word "instruction" the words "and examination" shall be inserted; and

(b) in the proviso to sub-section (5), after the words "first Statutes", the following shall be inserted, namely:—

"and no Statute containing, repealing or amending any provision which relates to the constitution, powers or duties of the Standing Finance Committee."

THE HINDU GAINS OF LEARNING ACT, 1930.

ACT No. XXX OF 1930.

[25th July, 1930.

An Act to remove doubt as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning.

MADRAS ACTS, 1930.

THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (FURTHER AMENDMENT) ACT, 1929.

ACT No. I OF 1930.

[*28th November*, 1929.]

An Act further to amend the Madras District Municipalities and Local Boards (Amendment) Act, 1921.

Preamble.

WHEREAS it is expedient further to amend The Madras District Municipalities and Local Boards (Amendment) Act, 1921, for the purposes hereinafter appearing;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act: It is hereby enacted as follows:—

Short title.

1. The Act may be called THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (FURTHER AMENDMENT) ACT, 1929.

Amendment of section 2, Madras Act II of 1922.

2. In section 2 of the Madras District Municipalities and Local Boards (Amendment) Act, 1921 (herein-after referred to as the said Act),—

(i) in sub-section (1)—

(*a*) after the words "elected or appointed to be a councillor of a municipal council" the words "or who becomes an ex officio councillor of a municipal council" shall be inserted, and

(*b*) for the words "having been elected/appointed a councillor" the words "having been elected / having been appointed a / having become an ex officio councillor" shall be substituted; and

(ii) in sub-section (2), after the words "elected or appointed a councillor" the words "or having become an ex officio councillor" shall be inserted.

Amendment of section 5, Madras Act II of 1922.

3. In section 5 of the said Act for the words "who has become an ex officio member of a local board" the words "who has become an ex officio councillor of a municipal council or an ex officio member of a local board" shall be substituted.

Insertion of new section 5-A in Madras Act II of 1922.

4. After section 5 of the said Act, the following section shall be inserted, namely:—

Saving in the case of chairmen and presidents.

"5-A. Notwithstanding anything contained in section 5, the chairman of a municipal council or the president of a local board, who has not made the oath or affirmation as a councillor or as a member of the local board, as the case may be, shall be entitled to act as such chairman or president:

[illegible]ovided that he makes the oath or affirmation and takes his seat [illegible]eeting of the council or board which he attends within

two months after he is elected or appointed as, or becomes entitled to exercise the functions of, the chairman or president, as the case may be."

Explanation.—For the purposes of this section—

(i) 'chairman' includes a vice-chairman exercising the functions of the chairman under sub-section (6) of section 12 of the Madras District Municipalities Act, 1920;

(ii) 'president' includes—

(*a*) the vice-president of a district or taluk board exercising the functions of the president of the board under sub section (1) of section 18 of the Madras Local Boards Act, 1920,

(*b*) the president of the district headquarters taluk board exercising the functions of the president of the district board under sub-section (2) of the same section, and

(*c*) the temporary president of a taluk or union board appointed under sub-section (3) or sub-section (4) of the same section.

THE MADRAS TOWN-PLANNING (AMENDMENT) ACT, 1930.

ACT NO. II OF 1930.

PREFATORY NOTE.—The necessity for the passing of this Act has been explained as follows in the Statement of Objects and Reasons :—

"The necessity for amending the Madras Town-Planning Act, 1920, was felt within a few years after the Act was passed. Serious difficulties were experienced in working the Act in connexion with the Mambalam Town-Planning Scheme. The scheme was prepared by the Madras City and Suburban Town-Planning Trust, which was constituted under the Act, and had, after the preliminary stages had been gone through, to be transferred to the Corporation of Madras for execution mainly for the reason that the Trust was not in a position to finance the scheme. The experience of the Madras Town-Planning Trust showed that the functioning of such a body was greatly handicapped for want of adequate financing provisions in the Act. There was no provision in the Act for equipping the Trust with necessary funds for executing any scheme prepared by it. The absence of any provision in the Act for transferring the execution of a scheme at any stage of its *making* or *execution* from the Trust to a local authority or from a local authority to a Trust also caused great inconvenience and trouble. On account of the difficulties about finance and the agency of execution, "The Mylapore Eastern Section Town-Planning Scheme" prepared by the Trust had to be dropped and several other schemes of the Trust had to be held in abeyance. With a view to obviate these difficulties, which were actually experienced in connexion with the operations of the Madras City and Suburban Town-Planning Trust Bill No. 5 of 1924 to amend the Madras Town-Planning Act, 1920, was introduced by the Government.

While Bill No. 5 of 1924 was pending consideration before the Select Committee to which it had been referred by the Legislative Council, it was felt that the Madras Town-Planning Act, 1920, stood in need of amendments in directions other than those dealt with by the Bill. As the Bill was primarily designed to overcome the difficulties in connexion with the Mambalam Town-Planning Scheme and as the scheme had been by that time transferred to the Corporation of Madras, the preferable course seemed to be to abandon the Bill in favour of a comprehensive amending Bill and accordingly Bill No. 5 of 1924 was not proceeded with further.

The existing Act implies a distinction between "town planning" and "town improvement" which is unnecessary and caused inconvenience in practice. The Act provides for construction of houses for the poorer and working classes only but does not include comprehensive housing schemes within its scope. Notwithstanding the compulsory provision contained in section 8 of the Act, most of the municipal councils falling within its purview failed to submit schemes within the prescribed time. In- delays occurred in the correspondence between one local body and another

the preparation of schemes and the procedure relating to it was complicated. There is no provision in the Act that the execution of a scheme should commence immediately after it was sanctioned; nor is power reserved for enabling the execution of different parts of a scheme at different times. A scheme becomes final when sanctioned by the Local Government even before the arbitrator has completed functioning. The Act imposes an inconvenient restriction by fixing a maximum period of six months from the date of the publication of a notification under section 14 for preferring claims for betterment contribution. Every decision of the arbitrator under the Act is final. These are some of the features which call for amendment in addition to the defects already adverted to which led to the introduction of Bill No. 5 of 1924. The object of the present Bill is to remedy these drawbacks and deficiencies.

The main changes introduced in the Act by this Bill are—

(1) the definition of "town-planning" so as to include "town improvement";

(2) provision that a scheme may provide that it or any portions thereof may be enforced or carried out by other responsible authorities specified therein;

(3) provision for a comprehensive "housing" programme (advance for house building);

(4) the preparation of *general* town-planning schemes for *all lands* in *all* municipalities and in their vicinity without any population limit;

(5) simplification of procedure in the matter of preparing schemes and the prevention of delays in the correspondence between one local body and another in regard to it;

(6) the execution of sanctioned schemes to be commenced forthwith and provision for execution of different parts of a scheme at different times;

(7) scheme not becoming final until the arbitrator has completed functioning;

(8) Government to have power to revoke or vary schemes *suo motu* after publication, etc.;

(9) provision of minimum period of time instead of maximum period for preferring claims to betterment contribution;

(10) provision of a right of appeal to the Government from the decision of the arbitrator;

(11) compulsory contribution to trusts from municipal revenues; and

(12) provision for transfer of scheme from one authority to another at any stage.

No special reference is necessary in this place to the other changes proposed in the Bill. The appended Notes on Clauses explain in detail the more important provisions of the Bill"—*Fort St. George Gazette*, Part IV, dated 17th September, 1930.

[*20th March*, 1930].

An Act to amend the Madras Town-Planning Act, 1920.

WHEREAS it is expedient to amend the Madras Town-Planning Act, 1920, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:— Preamble.

1. This Act may be called THE MADRAS TOWN-PLANNING (AMENDMENT) ACT, 1930. Short title.

2. In section 2 of the Madras Town-Planning Act, 1920 (hereinafter referred to as the said Act), clause (8) shall be re-numbered as clause (9) and the following shall be inserted as clauses (8) and (10), namely:— Amendment of section 2, Madras Act VII of 1920.

"(8) 'Responsible authority' means 'the authority or person, who is specified in a scheme as responsible for carrying out or enforcing the observance of all or any of the provisions of the scheme or for enforcing

the execution of any works which under the scheme are to be executed by any authority, owner, or other person'."

"(10) 'Town-planning' includes town-improvement."

Repeal of section 3, Madras Act VII of 1920.

3. Section 3 of the said Act shall be omitted.

Amendment of section 4, Madras Act VII of 1920.

4. In section 4 of the said Act—

(i) for clause (*a*) the following clause shall be substituted, namely :—

"(*a*) the laying out or relaying out of land, either vacant or already built upon, as building sites, or for any of the purposes mentioned in this section ;"

(ii) in clause (*c*), for the word 'and', occurring after the word 'removal', the word 'or' shall be substituted ;

(iii) in clause (*d*), after the word 'land', the words 'or other immovable property' shall be inserted, and the words 'for building purposes' shall be omitted ;

(iv) in clauses (*k*) and (*l*), the words 'for the poorer and working classes' shall be omitted ;

(v) in clause (*o*), after the word 'suspension', the words 'restriction or modification' shall be inserted, and for the figures '1884', the figures '1920' shall be substituted ;

(vi) in clause (*p*), before the word 'modification' the words 'suspension, restriction or' shall be inserted ; and

(vii) clause (*q*) shall be re-lettered (*r*) ; and the following shall be inserted as clause (*q*), namely :—

"(*q*) the advance to the owners of land or buildings comprised within the scheme, upon such terms and conditions as may be provided by the scheme, of the whole or part of the amount required for the erection of buildings or for the carrying out of the works, alterations or improvements in accordance with the scheme."

Amendment of section 5, Madras Act VII of 1920.

5. In sub-section (1) of section 5 of the said Act, the words 'In the scheme' shall be omitted.

Repeal of section 6, Madras Act VII of 1920.

6. Section 6 of the said Act shall be omitted.

Substitution of new section for section 8, Madras Act VII of 1920.

7. For section 8 of the said Act, the following section shall be substituted, namely :—

Obligation on certain councils to make schemes not later than the 31st March 1934

"8. (1) Every municipal council constituted prior to the 1st day of April 1930, shall, not later than the 31st day of March 1934 and every municipal council constituted after the 1st day of April 1930 shall, not later than four years from the date of the constitution of such council prepare, publish and submit for the sanction of the Local Government a general town-planning scheme in respect of all land within the municipality and in its vicinity unless the Local Government order otherwise.

(2) Notwithstanding anything contained in sub-section (1), the Local Government may, after making such enquiry as they may deem necessary by notification in the *Fort St. George Gazette*, direct any municipal council to prepare, publish and submit for their sanction before an appointed date a general town-planning scheme under this section for an area specified in such notification.

(3) A general Town-planning scheme shall determine the lines on which the improvement and development of the area within the municipality and in its vicinity shall proceed and shall provide for such of the matters referred to in section 4 and to such extent as may be prescribed."

Amendment of section 9, Madras Act VII of 1920.

8. In section 9 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) A municipal council may, by resolution, decide to prepare a scheme in respect of any land, within the municipal area, or in its vicinity outside such area, or to adopt with or without modifications a draft scheme proposed by all or any of the owners of any such land. The chairman shall then have a plan prepared showing the land proposed to be included in the scheme, the surrounding lands and any existing streets", and

(ii) in the proviso to sub-section (2) after the word 'Provided' the word 'further' shall be inserted and before the same proviso the following proviso shall be inserted, namely :—

"Provided that if the municipal council or district board concerned omits, for four months from the date of receipt of the communication requesting such concurrence, to send a final reply thereto, such concurrence shall be deemed to have been given :"

Amendment of section 10, Madras Act VII of 1920.

9. Sub-section (1) of section 10 of the said Act shall be re-numbered as section 10 and sub-sections (2) and (3) shall be omitted.

Amendment of section 11, Madras Act VII of 1920.

10. In section 11 of the said Act,—

(i) in sub-section (1), the words, figure and brackets 'sub-section (3)' and the word 'print' shall be omitted ; and

(ii) in sub-section (2), the words 'print and' shall be omitted.

Amendment of section 12, Madras Act VII of 1920.

11. In section 12 of the said Act,—

(i) for the words and figures 'sections 8 to 11', the words and figures 'sections 9 to 11' shall be substituted ; and

(ii) for the words 'to prepare, print and submit for their sanction a scheme', the words 'to prepare, publish and submit for their sanction a draft scheme' shall be substituted.

Amendment of section 13, Madras Act VII of 1920.

12. (1) Section 13 of the said Act shall be re-numbered as sub-section (1) of section 13 and in that sub-section as re-numbered—

(*a*) for clause (*d*), the following clause shall be substituted, namely :—

"(*d*) a full description of all details of the scheme under such clauses of section 4 as may be applicable."

(*b*) clause (*e*) shall be omitted.

(*c*) in clause (*f*) the word 'net' shall be omitted ; and

(*d*) for clause (*g*) the following clause shall be substituted, namely:—

"(*g*) regulations for enforcing or carrying out the provisions of the scheme ; and defining the responsible authority and the period for which such responsible authority shall function."

(2) To the same section, the following sub-sections shall be added namely:—

"(2) Every draft scheme which includes a housing scheme shall also contain the following particulars, namely:—

(i) the approximate number and the nature of the houses to be provided by the 'responsible authority';

(ii) the approximate quantity of land to be acquired and the localities in which land is acquired ;

(iii) the average number of houses per acre ; and

(iv) all matters incidental to the housing scheme.

(3) A draft scheme may provide that any person who commits or knowingly permits a breach of any specified provision of the scheme, or who neglects or fails to comply with any such provision, shall, on conviction, be punishable under section 44-B."

Amendment of section 14 Madras Act VII of 1920.

13. In section 14 of the said Act—

(i) at the end of sub-section (2) the words " and the fact of such submission shall be published in the prescribed manner" shall be added;

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) The Local Government may, after considering the objections and suggestions, if any, and making such inquiry as they think fit, sanction the scheme with or without modifications, or may refuse to sanction the scheme or may return the scheme to the council for reconsideration :

Provided that unless a modification is in the opinion of the Local Government, verbal or inconsequential, the Local Government shall not sanction the scheme with such modification without the consent of the council:

Provided further that when a scheme is returned to the Council for reconsideration, the council shall resubmit it to the Local Government within three months from the date of its receipt and the Local Government may then deal with the scheme in the manner mentioned in this sub-section:

Provided further that if the council fails to resubmit the scheme within the time specified in the foregoing proviso, the Local Government may, in relation to the scheme, pass such orders as they may deem fit," and

(iii) sub-section (5) shall be omitted, sub-section (4) shall be renumbered (5) and the following shall be inserted as sub-sections (4) and (6), namely:—

"(4) When a scheme returned for reconsideration is modified by the council, the scheme as so modified, shall, before resubmission to the Local Government for sanction, be published and passed by the council in the same manner as a draft scheme,

(*a*) in cases in which the modification involves the inclusion in or exclusion from the scheme of any land or the acquisition of any land not originally proposed to be acquired, and

(*b*) in every other case in which the modification is, in the opinion of the council or of the Local Government, of sufficient importance to require the following of this procedure.

(6) A notification published under sub-section (5) shall be conclusive evidence that the scheme has been duly made and sanctioned. The scheme shall have effect from the date of publication of such notification, and the execution of the scheme shall be commenced forthwith:

Provided that, where the scheme so provides, the execution of the scheme or any part thereof may be deferred until such time as may be fixed in the scheme."

Substitution of new section for section 15, Madras Act VII of 1920.

14. For section 15 of the said Act, the following section shall be substituted, namely:—

Variation or revocation of schemes.

"15. (1) A town-planning scheme sanctioned under section 14 may at any time be varied or revoked by a subsequent scheme, published and sanctioned in accordance with this Act:

Provided that the municipal council shall be competent to modify a scheme after it has been sanctioned by the Local Government under section 14 by an agreement entered into with the persons interested in the scheme and with the concurrence of the Local Government.

(2) (*a*) The Local Government may, at any time, by notification in the *Fort St. George Gazette*, vary or revoke a scheme sanctioned under section 14:

(*b*) Before issuing such notification the Local Government shall publish in the prescribed manner a draft of such notification together with a notice specifying a date on or after which such draft will be taken into consideration and shall consider any objection or suggestion which may be received in respect of such draft from the council or any person affected by the scheme before the date so specified."

Amendment of section 17, Madras Act VII of 1920.

15. In section 17 of the said Act—

(i) the word, figure and brackets 'sub-section (1)' shall be omitted;

(ii) for the words "and obtained permission from the municipal council to do so" the words "and obtained permission, in cases where a scheme has not been sanctioned, from the municipal council, and in other cases, from a responsible authority" shall be substituted; and

(iii) in the proviso after the word 'council' the words 'or the responsible authority' shall be inserted.

Amendment of section 19, Madras Act VII of 1920.

16. In section 19 of the said Act—

(i) for the word 'chairman' wherever it occurs in the section, the words 'responsible authority' shall be substituted; and

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) If the owner fails to show cause to the satisfaction of he responsible authority, the responsible authority may confirm the order granting such further period, as it may deem fit, to execute the

work and such order shall be communicated to and be binding on the owner and may be enforced. The expenses of enforcement may be recovered in the prescribed manner. An appeal shall lie to the Local Government against the order of the responsible authority and their decision shall be final."

Amendment of section 20, Madras Act VII of 1920.

17. In section 20 of the said Act, the words 'of the municipal council' shall be omitted,

Amendment of section 21, Madras Act VII of 1920.

18. In section 21 of the said Act, the word, figure and brackets 'sub-section (1)' shall be omitted.

Insertion of new section 22-A in Madras Act VII of 1920.

19. After section 22 of the said Act, the following section shall be inserted, namely :—

Application for sanction for withdrawal or modification of the scheme.

"22 A. (1) The municipal council may, within three months from the date of an award of compensation in respect of property injuriously affected, make an application to the Local Government to sanction the withdrawal or modification of all or any of the provisions of the scheme which gave rise to the claim for compensation and give notice of such application to the owner of such property.

(2) If the Local Government accord such sanction, the award of compensation shall stand cancelled, and the municipal council shall pay the costs, if any, awarded by the arbitrator in connexion with the claim for compensation.

(3) Nothing contained in this section shall affect the right of the owner to make a fresh claim for compensation in respect of the modified scheme sanctioned by the Local Government under sub-section (2).

(4) No award of compensation in respect of property injuriously affected shall be enforceable within three months from the date thereof, or, if notice has been given under sub-section (1), pending the orders of the Local Government on the application made under the same sub-section."

Amendment of section 23, Madras Act VII of 1920.

20. In section 23 of the said Act, for the words 'any property is increased in value' the words 'the value of any property has increased or is likely to increase,' and for the words 'not being later than six months' the words 'not being less than three months' shall be substituted.

Amendment of section 24, Madras Act VII of 1920.

21. In section 24 of the said Act—

(i) in clause (*a*) the word, figure and brackets 'sub-section (1)' shall be omitted ; and

(ii) in clause (*b*) for the word, figure and brackets 'sub-section (5)' the word, figure and brackets 'sub-section (6)' shall be substituted.

Substitution of new section for section 27, Madras Act VII of 1920.

22. For section 27 of the said Act, the following section shall be substituted, namely :—

"27. (1) After a scheme has been sanctioned the Local Government may and if so required by the council or any person interested in the scheme shall appoint an arbitrator with sufficient establishment to discharge all or any of the following duties :— Local Government to appoint arbitrator.

(*a*) to pass such orders as may be required under clauses (*a*) to (*d*) of sub-section (2) of section 5 ;

(*b*) to define, and, where necessary, to demarcate or cause the demarcation of, the reconstituted plots or the areas allotted to, or reserved for, the purposes mentioned in clause (*k*) of section 4 ;

(*c*) to decide, in reference to the claims made, whether any property is injuriously affected within the meaning of section 20, and award the compensation, if any, to be paid to the owner concerned in accordance with the provisions contained in chapter IV ; and

(*d*) to determine, in reference to the claims made, the properties which are liable to the betterment contribution under section 23 and estimate and record their market value at the date of the notification under section 10 or section 12, as the case may be, in accordance with the provisions of clause (*a*) of section 24.

(2) The decisions of the arbitrator under clauses (*a*) and (*b*) of sub-section (1) shall be read as part of the scheme sanctioned under section 14 and shall be final and binding on all persons :

Provided that where any such decision is in conflict with any provision in the scheme it shall require the approval of the Local Government and, on such approval being given, shall be deemed, to the extent mentioned in such decision, to have varied the sanctioned scheme."

23. For section 28 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 28, Madras Act VII of 1920.

"28. (1) The arbitrator shall give notice of his proceedings and conduct them in the prescribed manner and communicate his decision to the parties concerned. Powers and duties of arbitrator.

(2) An arbitrator shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

(3) The costs of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid."

24. For section 29 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 29, Madras Act VII of 1920.

"29. (1) Any party aggrieved by any decision of the arbitrator under clause (*c*) or clause (*d*) of sub-section (1) of section 27 may within three months from the date of the communication of such decision appeal to the District Judge concerned in cases arising outside the City Appeal.

of Madras and to the Chief Judge of the Court of Small Causes in cases arising in the City of Madras.

(2) The decision of the arbitrator under clause (*c*) or clause (*d*) of sub-section (1) of section 27 and, when an appeal has been preferred under sub-section (1), the decision on such appeal shall be read as part of the scheme sanctioned under section 14 and shall be final and binding on all persons."

Amendment of section 35, Madras Act VII of 1920.

25. In section 35 of the said Act,—

(i) in clause (*a*) of sub-section (2) and in clause (*d*) of sub-section (3) the word, figure and brackets 'sub-section (1)' shall be omitted; and

(ii) in clause (*f*) of sub-section (3) the words 'from the municipal council' shall be omitted.

Amendment of section 37, Madras Act VII of 1920.

26. In section 37 of the said Act, for the words 'in relation to the scheme in question' the words 'in relation to a particular scheme or to town-planning in general' shall be substituted.

Substitution of new section for section 38, Madras Act VII of 1920.

27. For section 38 of the said Act, the following section shall be substituted, namely:—

Joint town-planning committee.

"38. (1) Subject to such rules as the Local Government may make on this behalf, a municipal council may, and if so required by the Local Government shall, join with one or more than one other local authority in constituting a joint town-planning committee for the making of a joint town-planning scheme or for any purpose connected with town-planning in which they are jointly interested or for which they are jointly responsible.

(2) A joint town-planning committee may include persons who are not members of the local authorities concerned but who possess in their opinion special qualifications or represent institutions or corporations interested in the work of the committee:

Provided that the number of such persons shall not exceed one third of the total number of members of the joint committee.

(3) (i) The Local Government may make rules to carry out the purposes of sub-section (1).

(ii) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules to provide for—

(*a*) the total number of members of the joint committee;

(*b*) the number of such members who shall be members of the local authorities concerned and the number of such members who may be outsiders;

(*c*) the qualifications of persons who shall be members of the joint committee or the manner in which they shall be appointed or elected;

(*d*) the qualifications of the person who shall be the chairman of the joint committee or the manner in which he shall be elected or appointed;

(e) the term of office of members and chairman;

(f) the manner in which the committee shall be put in funds and shall account therefor; and

(g) the procedure of the committee.

(4) Rules made under sub-section (1) or (3) may be varied or revoked provided all the local authorities concerned assent to such variation or revocation.

(5) If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to the Local Government whose decision shall be final.

(6) If the Local Government take action under sub-section (1) they may issue such directions as they may think necessary or desirable in respect of all or any of the matters referred to in sub-section (3).

(7) When a joint town-planning committee has been constituted, such committee shall exercise the powers and perform the duties of the municipal council and its chairman the powers and duties of a chairman under this Act.

(8) Any joint town-planning scheme made by a joint committee may provide for the execution of the scheme or any part thereof jointly by all or two or more of the local authorities concerned or specify the parts of the scheme to be executed at the expense of the several local authorities in their respective areas and the said specified parts of the scheme shall after the publication of the notification under section 14 have effect in the areas to which they relate as separate schemes."

28. In sections 39 and 40 of the said Act, for the figures "1884", the figures "1920" shall be substituted. Amendment of sections 39 and 40, Madras Act VII of 1920.

29. In sub-section (2) of section 42 of the said Act, after the words "the municipal council" the words "or the responsible authority as the case may be", after the words "a municipal council" the words "or a responsible authority" and after the word "council", wherever it occurs, the words "or the responsible authority" shall be inserted. Amendment of section 42, Madras Act VII of 1920.

30. In section 43 of the said Act, after the words "municipal authorities" wherever they occur, the words "or the responsible authority" shall be inserted. Amendment of section 43, Madras Act VII of 1920.

31. In section 44 of the said Act,— Amendment of section 44, Madras Act VII of 1920.

(i) in sub-section (2)—

(a) in clause (a), the words, figures and brackets "sub-sections (1) and (3)" shall be omitted;

(b) in clause (b), for the word, letter and brackets "clause (q)" the word, letter and brackets "clause (r)" shall be substituted, and after the word and figures "section 13" the word, figure and brackets "sub-section (1)" shall be inserted;

(c) clause (h) shall be omitted;

(d) in clause (k) after the words "municipal council" the words "and responsible authority" shall be inserted;

(e) in clause (1) the words "in the place of a council" shall be omitted and for the words "on the part of the latter" the words "on the part of the municipal council or the responsible authority" shall be substituted;

(f) in clause (o) after the words "municipal councils" the words "and responsible authorities" shall be inserted; and

(g) after clause (t) the following clauses shall be inserted, namely:—

"(u) the funds which shall be transferred by the municipal council to the responsible authority, the administration of such funds, the accounts to be kept in respect thereof and their audit;

"(v) matters other than those referred to in the foregoing clauses which are expressly required or allowed by this Act to be prescribed;" and

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) In making any rule, the Local Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees."

Insertion of sections 44-A and 44-B in Madras Act VII of 1920.

32. After section 44 of the said Act, the following sections shall be inserted, namely:—

Previous publication of the rules.

"44-A. The power to make rules under sections 38, 44 and 54 shall be subject to the condition of previous publication.

Penalty for breach of the provisions of the scheme.

44-B. (1) Where a scheme sanctioned under this Act has provided that any person who commits or knowingly permits a breach of any specified provision of the scheme or who neglects or fails to comply with any such provision shall be punishable under this section, the responsible authority shall send to any person who commits or knowingly permits a breach of any such provision of the scheme or neglects or fails to comply with any such provision, a notice calling on him to discontinue the breach or cause it to be discontinued or to comply with such provision of the scheme.

(2) If after the expiry of one month from the date of receipt of the notice by such person under sub-section (1) the breach or neglect or failure continues, such person shall, on conviction, be punishable

(i) with fine which may extend to one hundred rupees, and

(ii) if the breach, neglect or failure continues after such conviction, with fine which may extend to fifteen rupees for every day during which the breach, neglect or failure continues after such conviction."

Insertion of new section 50-A in Madras Act VII of 1920.

33. After section 50 of the said Act, the following section shall be inserted, namely:—

"50-A. The municipal council in whose area a trust operates shall pay annually to the trust such amount as may be agreed on between them or as may be fixed by the Local Government." Payment to trust by municipal councils.

34. In sub-section (1) of section 54 of the said Act, the words "subject to the condition of previous publication" shall be omitted. Amendment of section 54, Madras Act VII of 1920.

35. After section 54 of the said Act, the following chapter shall be inserted, namely :— Insertion of new chapter X in Madras Act VII of 1920.

"CHAPTER X.

TRANSFER OF PROCEEDINGS.

55. (1) The Local Government may, by notification and from a date to be specified in such notification, transfer the proceedings commenced under this Act in respect of any land by any authority having jurisdiction to any other authority having jurisdiction over such land. Transfer of proceedings from one authority to another.

(2) Before issuing a notification under sub-section (1) the Local Government shall communicate to the authorities affected the grounds on which they propose to make the transfer, fix a reasonable period for them to show cause against the proposal and consider their objections, if any.

(3) The authority to whom a transfer of proceedings is made under sub-section (1) may continue such proceedings from the stage which they had reached on the date specified in the notification.

(4) When making a transfer of proceedings under sub-section (1), the Local Government may direct the authority to whom the transfer is made to reimburse the authority from whom the transfer is made the net expenditure which the last mentioned authority may, up to the date of such transfer, have incurred on such proceedings.

(5) From the date specified in the notification under sub-section (1) all rights and assets which, for the purposes of the proceedings transferred by such notification, are vested in, and all obligations and liabilities which for the same purposes are enforcible against the authority from whom the transfer is made, shall vest in or be enforcible against the authority to whom the transfer is made."

THE MADRAS GAMING ACT.

(ACT NO. III OF 1930.)

PREFATORY NOTE.—The following is the Statement of Objects and Reasons attached to the Bill :—

"The Madras City Police (Amendment) Act, 1929, was designed to deal with bucket-shops in the City of Madras. There is increasing evidence of the fact that bucket shops are springing up outside the municipal limits. In order to deal with them effectively and to consolidate the law on gaming and keeping common gaming-houses

throughout the province, this Bill extends to the Presidency, with the exception of Madras City, those provisions of the Madras City Police Act, 1888, as amended by the Madras City Police (Amendment) Act, 1929, which deal with bucket shops. It also combines, in the same Bill, the provisions of the Madras City Police Act, 1888, and the Towns Nuisances Act, 1889, which relate to gaming and the keeping of a common gaming house."

21st March, 1930.]

An Act to provide for the punishment of gaming and the keeping of common gaming-houses in the Presidency of Madras.

Preamble.

WHEREAS it is expedient to make provision for the punishment of gaming and the keeping of common gaming-houses in the Presidency of Madras; And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called THE MADRAS GAMING ACT, 1930.

Extent.

2. This Act extends to the whole of the Presidency of Madras with the exception of the City of Madras as defined in the Madras City Police Act, 1888.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context,—

"Common gaming-house."

"Common gaming-house" means any enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such enclosure, room or place, whether by way of charge for the use of instruments of gaming or of the enclosure, room or place, or otherwise howsoever;

"Gaming."

"Gaming" does not include a lottery, but includes wagering or betting on a horse-race except when such wagering or betting takes place,—

(i) on the date on which such race is to be run; and

(ii) in a place or places within the race-enclosure which the authority controlling such race has with the sanction of the Local Government set apart for the purpose.

"Instruments of gaming."

"Instruments of gaming" include an article used as a subject or means of, or for the purpose of carrying on or facilitating, or in connexion with gaming and any books, lists, tickets, forms or other documents used or intended to be used as a register or record or evidence of gaming.

Penalty for opening, etc., any enclosure, etc., for gaming on a horse race.

4. (i) Whoever opens, keeps or uses, or permits to be opened, kept or used any enclosure, room or place for the purpose of gaming on a horse race shall be liable on conviction, to imprisonment not exceeding three months or for every day on which such enclosure, room or place is so opened, kept or used to a fine not exceeding five hundred rupees or to both.

(ii) Whoever is found gaming on a horse race shall be liable, on conviction, notwithstanding any provision to the contrary in this Act, to a fine not exceeding five hundred rupees or to imprisonment not exceeding one month.

5. If any salaried Magistrate not inferior to a Magistrate of the second class or any Police Officer not below the rank of a Deputy Superintendent of Police has reason to believe that any place is used as a common gaming-house, he may by his warrant give authority to any Police officer, not below the rank of a Sub-Inspector, to enter with such assistance as may be found necessary, by night or by day, any such place, and to arrest all persons found therein and to seize all instruments of gaming and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein, and to search all parts of such place and also the persons found therein. Power to grant warrant to enter a common gaming-house.

6. Any cards, dice, gaming table or cloth, board or other instruments of gaming found in any place entered or searched under the provisions of the last preceding section, or on any person found therein shall be evidence that such place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants. Cards, dice, etc., found in search under last section to be evidence that place is a common gaming-house.

7. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, bet or stake. Proof of playing for stakes unnecessary.

8. Whoever opens, keeps or uses, or permits to be used any common gaming-house, or conducts or assists in conducting the business of any common gaming-house or advances or furnishes money for gaming therein, shall be liable on conviction to fine not exceeding five hundred rupees or to imprisonment not exceeding three months, or to both. Penalty for opening, etc., a common gaming-house.

9. Whoever is found gaming or present for the purpose of gaming in a common gaming-house shall on conviction be liable to fine not exceeding two hundred rupees or to imprisonment not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming. Penalty for being found gaming in a common gaming-house.

10. On conviction of any person for keeping a common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein may be destroyed by the order of the Magistrate, and such Magistrate may order all or any of the other articles seized, or the proceeds thereof, to be forfeited. Instruments of gaming may be ordered to be destroyed on conviction.

11. Nothing in sections 5 to 10 of this Act shall be held to apply to games of mere skill wherever played. Saving of games of skill.

12. Whoever is found gaming with cards, dice, counters, money or other instruments of gaming in any public street, place or thoroughfare or publicly fighting cocks, shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding one month; and such instruments of gaming and money shall be forfeited. Penalty for gaming in public street, etc.

Police may arrest without warrant on view of offence.

13. Any Police Officer may arrest without a warrant any person committing in his view any offence made punishable by this Act.

Repeal.

14. Clause (10) and the last paragraph of section 3 and sections 6, 7 and 9 of the Towns Nuisances Act, 1889, are hereby repealed.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1930.

ACT NO. IV OF 1930.

PREFATORY NOTE :—Statement of Objects and Reasons.—*Clause* 3.—Religious institutions which do not ordinarily come under the scope of the Madras Hindu Religious Endowments Act on account of their income being below the minimum laid down in section 4 are in a very neglected and mismanaged condition. As it is, such cases have to be dealt with by special application of the Act under the proviso to that section. The Act should apply to all institutions irrespective of income. Wherever the levy of contributions will work as a hardship on temples or maths with low incomes, exemption from section 69 of the Act may be given or the Board may fix a suitable rate in exercise of its discretionary power under that section.

2. *Definition of 'Excepted temple'*—*Clause* 4.—There are numerous difficulties in the way of deciding whether a temple is excepted or not by the test provided in the present definition of an excepted temple. Further, there are instances of temples whose peculiar conditions justify exceptional treatment though they fall under the category of non-excepted temples by applying the existing definition. The present complicated definition is replaced by a simple one by which all temples, the trusteeship whereof has been wholly hereditary or has been specially provided for by the founder and temples which for special reasons the Local Government want to treat as excepted temples, will come under that category.

3. *Clause* 5.—Several matters including complaints about mismanagement come up before the Board both on the administrative and judicial sides of its work. Very often temporary arrangements have to be made for the management of the affairs of temples or maths pending disposal of the matters under investigation and action has to be taken under section 18. To make it clear that the Board can do so under it, the addition of an explanation is proposed.

4. *Clauses* 6, 7 *and* 8.—The Board has the power of general superintendence under section 18. But there are no clear provisions empowering it to control the actions of temple committees or modify them when the latter go wrong. Temple committees are composed of honorary members, and sometimes they may not devote sufficient attention, or may be swayed by factions. Temple committees may thus fail to take proper action, and experience has also shown that some of them have been erratic in their resolutions. To ensure the proper working of committees and their co-operation with the Board, and in order to co-ordinate their activities, the Board should be able to revise or cancel their resolutions and to give directions for taking action, which they fail to take. The amendments proposed to recast section 34, to modify section 35 and to insert a new section after the latter section are, therefore, quite necessary.

5. *Clauses* 9 *and* 10.—Doubts are sometimes raised whether specific endowments are also liable to pay the contribution leviable under section 69, though the intention is indicated by the second paragraph of section 70. It is deemed preferable to make the point quite clear. Further, the general trustees of temples and maths may be relieved of the liability to pay contributions in respect of specific endowments. The trustees of the latter must be made solely responsible therefor. Great delay and inconvenience are experienced in the matter of the levy of contributions owing to the absence of provisions for the speedy recovery of the same from recalcitrant trustees. The Revenue Department must be authorized to recover arrear contribution, on behalf of the Board and temple committees as if they were arrears of land revenue instead of applications having to be filed in district courts. This very provision will operate as a preventive and the actual number of cases of non-payment necessitating coercive action will be

few and far between. For these reasons, certain amendments have been proposed to sections 69 and 70.

6. *Clause* 11.—Parties coming up before the Board are not able to get orders as to costs at the conclusion of the cases enquired into by it. It is but fair that provision should be inserted to govern cases where the Board feels that the ends of equity and of justice require the awarding of costs in connexion with its proceedings.

7. *Clause* 12.—The present section 78 does not provide for non-hereditary trustees appointed by the Board seeking the help of courts to recover possession of temple properties. The modification of the section as suggested will remove the desideratum felt in experience.

8. *Clause* 13.—Presidents of the Board and committees must have the power to authorize their officers to certify copies furnished under section 82 of the Act and an amendment is proposed for that purpose.

9. *Clause* 14.—Doubts have been raised as to whether disputes as to the private character of temples can be dealt with by the Board under section 84 as it is. The proposed amendment is intended to make the meaning and object of the legislature clear, such doubts having been based on the existence of the definition of 'temple' and 'math' as meaning a public temple and a public math.

[*25th March*, 1930.]

An Act to amend the Madras Hindu Religious Endowments Act, 1926 (*Madras Act II of* 1927).

WHEREAS it is expedient to amend the Madras Hindu Religious Endowments Act, 1926 ; It is hereby enacted as follows :— Preamble.

1. This Act may be called "THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1930." Short title.

2. In this Act, the words " the said Act " shall mean the Madras Hindu Religious Endowments Act, 1926. Definition.

3. Section 4 of the said Act shall be omitted. Repeal of section 4, Madras Act II of 1927.

4. In section 9 of the said Act, the following shall be substituted for clause (5) :— Amendment of section 9, Madras Act II of 1927.

"(5) 'Excepted temple' means and includes a temple, the right of succession to the office of trustee or the offices of all the trustees (where there are more trustees than one) whereof has been hereditary, or the succession to the trusteeship whereof has been specially provided for by the founder."

5. At the end of section 18 of the said Act, the following shall be added as an explanation :— Amendment of section 18, Madras Act II of 1927.

" *Explanation.*—The general powers of superintendence of the Board shall include the power to pass such interim orders as it deems necessary in the interests of the proper maintenance of a math or temple or the administration of a religious endowment."

6. The following shall be substituted for section 34 of the said Act :— Substitution of new section for section 34, Madras Act II of 1927.

"34. (1) The resolutions of a committee shall be carried into effect by its President in whom the entire executive power of the committee shall, save as hereinafter provided, be vested. Powers and duties of the President.

(2) (*a*) All the resolutions of a committee shall be notified to the Board within one week after they are passed.

(*b*) The Board may call for any record or proceedings or other document or paper from any committee for the purpose of satisfying itself as to the correctness, regularity or propriety of any order or proceedings recorded or passed by such committee.

(3) (*a*) The Board shall have the power of staying, for reasons to be recorded by it, the execution of any of the resolutions of the committee and remitting the same to the committee for reconsideration.

(*b*) If the committee upon such reconsideration confirm the said resolutions, the Board may, whenever it deems such step necessary in the interests of the temple affected or the proper management of the affairs of the committee, modify or cancel the said resolutions."

Amendment of section 35, Madras Act II of 1927.

7. In section 35 of the said Act, for the word and figure "section 18" the words and figures "sections 18, 34 and 35-A" shall be substituted.

Insertion of new section 35-A in Madras Act II of 1927.

8. The following new section shall be inserted after section 35 of the said Act :—

Board's power to perform the duties of a Committee at the expense of the funds of the Committee in case such Committee makes defaults.

"35-A. Where the Board is satisfied that any committee has failed to perform the duties entrusted to it under this Act, the Board may, after giving reasonable notice to the committee and considering the representations it may make, undertake and perform all or any of such duties so left unperformed, the expenses if any involved therein being met from the funds of the committee concerned."

Substitution of new section for section 74, Madras Act II of 1927.

9. The following new section shall be inserted after section 74 of the said Act :—

Cost of proceedings, etc.

"74-A. The costs of and incident to all proceedings before the Board shall be in the discretion of the Board, which shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid; and the order passed in this regard may be transferred for execution to the court and shall be executed by the court as if the order had been passed by itself."

Substitution of new section for section 78, Madras Act II of 1927.

10. The following shall be substituted for section 78 of the said Act :—

Putting trustee in possession.

"78. Where a person has been appointed as trustee of a math or temple or a religious endowment connected therewith or has been appointed to discharge the functions of a trustee by the committee or the Board, in accordance with the provisions of this Act and such person is resisted in, or prevented from obtaining possession of the math, temple or religious endowment concerned and the records, accounts and pro-

perties thereof, the court may on application by the person so appointed and on production of the order of appointment, direct the delivery to such person of the possession of the math, temple or religious endowment and of the records, accounts and properties thereof."

11. Section 82 of the said Act shall be recast as follows :— Substitution of new section for section 82 Madras Act II of 1927.

"82. The President of a Board or Committee may grant copies of proceedings or other records of his office on payment of such fees and subject to such conditions as may be determined by the Board. Copies shall be certified by the President of the Board or committee or by such officer as may be authorized in this behalf by the President of such Board or committee, in the manner provided in section 76 of the Indian Evidence Act, 1872." Grant of copies of proceedings, etc

12. The following shall be substituted for section 84 of the said Act :— Substitution of new section for section 84 Madras Act II of 1927.

"84. (1) If any dispute arises as to whether an institution is a math or temple as defined in this Act or whether a temple is an excepted temple, such dispute shall be decided by the Board. Settlement of dispute as to whether an institution is a math or temple as defined in this Act.

(2) Any person affected by a decision under sub-section (1) may, within one year, apply to the court to modify or set aside such decision, but, subject to the result of such application, the order of the Board shall be final."

THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC ACT, 1930.

ACT NO. V OF 1930

PREFATORY NOTE :—" The existing provisions of Law dealing with prostitution are to be found in sections 52 and 71 (xx) of the Madras City Police Act. In effect they enable the police to deal with brothels and with soliciting in public in the Madras city to a very limited extent by punishing the offenders. This enactment was passed nearly forty years ago. The rapid growth of urban population in recent times, with its inevitable result of permanent congregation of large numbers of unmarried men in towns has introduced a new situation which requires to be differently dealt with. An outstanding feature of that situation has been an increase in prostitution. While modern conceptions of the sanctity and worth of human life revolt against the corruption of youthful and innocent minds and the degradation involved in bringing up young girls to a life of prostitution, the vice, strangely enough, instead of being confined to individual instances of professional or accidental prostitution is tending to become commercialized. It is difficult to say with exactness how many brothels there are in a city like Madras. But there are brothels, that they are growing in numbers, that they are being replenished by fresh recruits and that they are becoming a nuisance to the neighbourhood are facts which are thrusting themselves more and more on the public attention. Brothels are becoming paying business proportionable to maintaining a regular staff of importers, procurers, managers and landlords.

2. An attempt is made in this Act to deal with commercialized vice. Power is taken for the suppression of brothels, for the rescue, protection and custody of young girls, and for punishing the men and women who participate in this vice for gain. Power is given to the police officers to enter premises and effect arrests in certain contingencies. The Local Government is empowered to frame rules for carrying out the provisions of this Act in detail.

3. A word has to be added about the scope of the Act. It is felt that it would be advisable to confine its operation at present to the city of Madras, and authorize the Government to extend it to mofussil towns on the application of local bodies concerned.'

[28th March, 1930.]

An Act for the Suppression of Brothels and Immoral Traffic.

Preamble.

WHEREAS it is expedient to make better provision for the suppression of brothels and of traffic in women and girls and for other purposes of a like nature in the Madras Presidency ; And whereas the previous sanction of the Governor-General, required by sub-section (3) of section 80-A of the Government of India Act, has been obtained ; It is hereby enacted as follows :—

Short title.

1. (*a*) This Act may be called " THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC ACT, 1930."

Commencement.

(*b*) It shall come into force on such date as the Local Government may, by notification in the *Fort St. George Gazette*, direct.

Extent.

2. This Act shall apply to the whole of the Presidency of Madras.

Repeal.

3. Clause (XX) of section 71 of the Madras City Police Act, 1888, is hereby repealed.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " Brothel " means any house, room, or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purpose of prostitution.

(*b*) " Commissioner of Police " means the Commissioner of Police for the City of Madras as appointed under section 5 of the Madras City Police Act of 1888.

(*c*) " Magistrate " means a salaried Presidency Magistrate or Magistrate of the first class, inclusive of the Commissioner of Police.

(*d*) " Prescribed " means prescribed by rules made under section 16.

(*e*) " Prostitution " means promiscuous sexual intercourse for hire.

(*f*) " Superintendent of Police " means a District Superintendent of Police appointed under the Madras District Police Act, 1859, or any person appointed by the Local Government to perform the duties of the Superintendent of Police for the purposes of this Act.

Punishment for keeping a brothel or allowing premises to be used as a brothel.

5. (1) Any person who keeps or manages or acts or assists in the management of a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any person who,

(*a*) being the tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel ; or

(*b*) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, to any person convicted under sub-section (1) or clause (*a*) of this sub-section with the

knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the use of such premises, or any part thereof, as a brothel;

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both.

(3) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which the lessee, tenant, or occupier thereof has been convicted under clause (*a*) of sub-section (2) shall be entitled forthwith to determine such lease, tenancy or occupation."

Removal and disposal of minor girls from brothels, etc.

6. (*i*) Where a Magistrate has reason to believe from a report made to him by a police officer or otherwise, that a girl apparently under the age of 18 years is living, or is carrying on. or is being made to carry on the business of prostitution in a brothel, disorderly house, or place of assignation, he may issue an order to a police officer not below the rank of an Inspector specially authorized in writing in this behalf by the Commissioner of Police, or by the Superintendent of Police, to enter into such brothel, disorderly house or place of assignation and to remove therefrom such girl; and thereupon such police officer shall have the power to enter into such brothel, disorderly house or place of assignation, and shall be entitled to remove such girl forthwith from such brothel, disorderly house or place of assignation.

(*ii*) A girl who has been so removed shall be brought before a Juvenile Court constituted under section 36 of the Madras Children Act, 1920, and the Court shall cause an inquiry to be made in the manner provided in sub-section (3) of section 29 of that Act, and, if satisfied that the girl is under 18 years of age and that she should be dealt with as therein provided, may make an order that such girl be placed until she attains the age of 21 years or for any shorter period in a rescue home or in such other custody as the Court for reasons to be stated in writing shall consider suitable, provided that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

(*iii*) For the determination of the question whether a girl produced before a court under the provisions of this section is under 18 years of age, the provisions of section 37 of the Madras Children Act, 1920, shall be applied.

Intermediate custody of girl removed from brothel, etc.

7. When a girl has been removed from a brothel or disorderly house or place of assignation under the provisions of sub-section (*i*) of section 6, the police officer carrying out the removal shall, until such girl can be brought before the court, cause her to be detained in a rescue home or in such other suitable custody (other than a police station or jail) as may be prescribed in this behalf by the Local Government, provided however that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

Subsequent treatment of girl committed to suitable custody under section 6 (*ii*)

8. When an order that a girl be placed in suitable custody has been passed under sub-section (*ii*) of section 6, the provisions of the Madras Children Act, 1920, shall, subject to such notifications as the Government may prescribe by rules made under section 16 and notwithstanding her age, thereafter apply to the case of such girl during the period of the said order as if she were a child or young person dealt with under section 29 of the Madras Children Act, 1920.

Importing woman or girl for prostitution.

9. Any person who takes or attempts to take or causes to be taken from one place to another any woman or girl with a view to her carrying on or being brought up to carry on the business of prostitution or causes or induces any woman or girl to carry on the business of prostitution shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Detention for prostitution in brothel or with intent.

10. (*i*) Any person who detains any woman or girl against her will

(*a*) in any house, room or place in which the business of prostitution is carried on, or

(*b*) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(*ii*) A person shall be presumed to detain a woman or girl who is in any house, room or place in which the business of prostitution is carried on, or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,

(*a*) withholds from her any jewellery, wearing apparel or other property belonging to her or

(*b*) threatens her with legal proceedings if she takes away with her any jewellery or wearing apparel lent or supplied to her by or by the direction of such person.

(*iii*) Notwithstanding any law to the contrary, such a woman or girl shall not be liable to be proceeded against civilly or criminally for taking away or being found in possession of any jewel, wearing apparel, money or other property alleged to have been lent or supplied to, or to have been pledged by such woman or girl by or to the person by whom she has been detained.

Procuration.

11. Any person who induces a woman or girl to go from any place with intent that she may, for the purposes of prostitution, become the inmate of or frequent a brothel, shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Soliciting for purposes of prostitution.

12. Whoever,

(1) in any street or public place, solicits any person for the purpose of prostitution, in such manner as to cause obstruction, annoyance or danger to the residents or passengers, or to offend against public decency, or

(2) frequents such street or public place for the purpose of prostitution or of solicitation, so as to constitute a nuisance, or to offend against public decency,

shall be punished, with imprisonment for a term which may extend to two months, or with fine which may extend to one thousand rupees, or with both.

Arrest without warrant.

13. Any Police officer (not below the rank of Inspector) on complaint, and any Police officer authorized in this behalf by the Commissioner of Police or the Superintendent of Police by special order, may

arrest without a warrant any person committing in his view any offences punishable under sections 9, 10, 11 and 12 if the name and address of such person be unknown to such Police officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address has been given.

14. Notwithstanding anything contained in any other law for the time being in force, only a Police officer authorized in this behalf by the Commissioner of Police or the Superintendent of Police by special order may, for the purposes of ascertaining whether an offence punishable under section 9, 10, 11 or 12 has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman or girl is living in respect of whom an offence punishable under section 9, 10, 11 or 12 has been committed. Power to enter premises.

15. No court inferior to that of a Magistrate as defined in clause (*c*) of section 4 shall try offences under sections 5, 9, 10, 11 and 12. Trial of offences.

Provided that notwithstanding anything contained in clause (*c*) of section 4, the Commissioner of Police shall not be deemed to be a Magistrate for the purpose of this section.

16. The Local Government may make rules. Power of Local Government to make rules

(*a*) for the care, treatment, instruction and the maintenance of girls placed in the rescue home or homes or other suitable custody under sub-section (*ii*) of section 6, and

(*b*) for the detention of girls under the provisions of section 7, subject to the restriction that no girl shall be detained in the custody of a person or body of a different religious persuasion from that of the girl.

THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) ACT, 1930.

ACT NO. VI OF 1930.

PREFATORY NOTE:—The following extract from the Statement of Objects and Reasons explain the reason for the passing of this Act:—"Under section 9 of the State Aid to Industries Act, 1922, no loan can be granted of an amount exceeding 50 per cent. of the net value of the assets of the industrial business or enterprise after deducting the existing encumbrances. There is reason to believe that this limitation reduces the usefulness of the Act and it has been suggested that this restriction might be removed. The main objection in fixing the proportion of the amount of the loan admissible under the Act to a percentage of the net value of the assets of the industrial business is to discourage applications from persons who have shown no proof of serious effort on their part by contributing some capital of their own to the enterprise. But past experience has shown that the proportion of 50 per cent. now fixed is unnecessarily high and has stood in the way of a more extended use being made by intending promoters of industrial enterprises of the facilities provided by the Act. At the same time it is not considered advisable that the present restriction should be removed in entirety and the applicant encouraged to rely for all the money required for a new enterprise on Government help. It is always a satisfactory course for any one who wishes to start a business or industry to find some capital of his own before he approaches Government with a request for State help to supplement his resources. It is proposed to amend the provisions of section 9 with a view to making it possible for aid being granted to applicants of an amount of loan equal to the net value of the assets of the industrial business or enterprise."

[17th April, 1930.]

An Act further to amend the Madras State Aid to Industries Act, 1922, for a certain purpose.

Preamble.

WHEREAS it is expedient further to amend the Madras State Aid to Industries Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) ACT, 1930.

Amendment of section 9, Madras Act V of 1923.

2. In section 9 of the Madras State Aid to Industries Act, 1922, the following words shall be added at the end, namely: "Provided, however, that a loan of an amount not exceeding Rs. 40,000 may be granted even if it exceeds 50 per cent. of the value of the assets as above ascertained."

MADRAS VILLAGE-OFFICES (AMENDMENT) ACT, 1930.

ACT NO. VII OF 1930.

PREFATORY NOTE :—The following extract from the Statement of Objects and Reasons explain the necessity for the passing of this Act :—" Sub-section (5) of section 10 of the Madras Hereditary Village Offices Act, 1895, and section 13 of the Madras Proprietary Estates Village Service Act, 1894, have been interpreted by the Revenue officers, as precluding the registration of a second minor as heir to a minor registered as heir to a previous holder of a village office if that registered minor vacates the office by death or forfeiture of the right to appointment by remaining disqualified for three years after attaining majority. This is perhaps based on the assumption that the provision in sub-section (5) that the vacancy shall be filled up as provided in sub-sections (2) and (3) removes the case from the operation of sub-section (5) and that the vacancy to be filled up is not that caused by the death or disqualification of the registered heir but the original vacancy which led to the minor's registration as heir. In this view even adult heirs are excluded if they were not in existence at the time of occurrence of the *original* vacancy.

Section 6 of the Act which relates to appointments made at the time of the revision of village establishments makes no express provision for the registration of minors.

Owing to the doubt raised as to the wording of sub-section (5) of section 10 and the defect in section 6, the interests of minor heirs of village offices have been seriously prejudiced and offices are passing from the families of the hereditary holders to those of strangers, much to the detriment of the harmonious working of village establishments. It is therefore proposed to amend the concerned provisions in Act III of 1895 and the corresponding provisions in Act II of 1894."

[10th May, 1930.]

An Act to amend the Madras Proprietary Estates' Village-service Act, 1894, and the Madras Hereditary Village-Offices Act, 1895.

Preamble.

WHEREAS doubts have been entertained as to the intention and meaning of some of the provisions of the Madras Proprietary Estates' Village-service Act, 1894, and the Madras Hereditary Village-Offices Act, 1895 ; And whereas it is expedient to remove those doubts ; It is hereby enacted as follows :—

Short title.

1. This Act may be called THE MADRAS VILLAGE-OFFICES (AMENDMENT) ACT, 1930.

2. In the Madras Proprietary Estates' Village-service Act, 1894—

(i) for the last sentence of section 13, the following sentences shall be substituted, namely :— (Amendment of Madras Act II of 1894.)

"If the person registered as heir under this section remains disqualified under sub-section (1) of section 10 for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death, the vacancy shall be filled up in accordance with the provisions of this Act, as if he was the last holder of the office "; and

(ii) in section 15, after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2), by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in section 13 shall be adopted."

3. In the Madras Hereditary Village-Offices Act, 1895—

(i) after sub-section (2) of section 6, the following sub-section shall be inserted, namely :— (Amendment of Madras Act III of 1895.)

"(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2) by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in sub-section (5) of section 10 shall be adopted";

(ii) for the last sentence of sub-section (5) of section 10, the following sentences shall be substituted, namely :—

"If the person registered as heir under this sub-section remains disqualified under sub-section (1) for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office"; and

(iii) for the last sentence of sub-section (4) of section 11, the following sentences shall be substituted, namely :—

"If the person registered as heir under this sub-section, on attaining majority, proves to be disqualified under clause (*c*) of sub-section (1), he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office."

THE ANDHRA UNIVERSITY (AMENDMENT) ACT, 1930.

ACT NO. VIII OF 1930.

PREFATORY NOTE :—The following extracts from the Statement of Objects and Reasons explain the necessity for the passing of this Amending Act :—" It is considered necessary to strengthen the financial administration of the Andhra University

by the constitution of a Statutory Finance Committee consisting of the Vice-Chancellor, Secretary to the Government of Madras in charge of Finance, one member appointed by the Syndicate and one member nominated by the Chancellor from among his nominees to the Syndicate. Power is reserved to the Finance Committee to scrutinize the financial estimates, accounts and items of expenditure of the University. The views of the Finance Committee will be taken into consideration before final decisions are taken by the authorities concerned. The Syndicate is also enlarged by the inclusion of the Secretary to the Government in charge of Finance as an *ex-officio* member and by the increase in the number of members to be nominated by the Chancellor from two to three.

It is also proposed to amend the Andhra University Act, 1925, so as to provide for payment to the University from provincial funds of (1) a non-recurring grant of twenty-seven lakhs to be credited to the Permanent General Capital Fund or the Foundation Fund of the University, (2) an annual block grant of not less than one and a half lakhs of rupees for the general expenditure of the University, and (3) a non-recurring grant of not less than seven and a half lakhs of rupees for buildings and equipment of the University payable on such conditions as may be agreed upon between them and the University.

As a result of the passing of the Andhra University (Amendment) Act, 1929 (Madras Act VI of 1929), the Ceded districts and Chittoor have ceased to form part of the Univerity area but the members of municipal councils, taluk boards and district boards of these districts continue to have the right to send in their representatives on the Senate. It is considered desirable that (*a*) the non-official members of the Legislative Council who are residents of these districts, (*b*) headmasters of the secondary schools in these districts, and (*c*) landholders of these districts should be allowed to have representation on the Senate by enlarging the scope of the respective electorates under clauses (3), (4) and (6) of class III of section 15 of the Act.

The Bill gives effect to the proposals referred to above."

[10*th May*, 1930.]

An Act further to amend the Andhra University Act, 1925.

Preamble.

WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called THE ANDHRA UNIVERSITY (AMENDMENT) ACT, 1930.

Amendment of section 15, Madras Act II of 1926.

2. In section 15 of the Andhra University Act, 1925 (hereinafter referred to as the said Act), under the head "Class III—Other Members"—

(i) in clause (3), for the words "of the University area" the words "or any of the districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor" shall be substituted ;

(ii) in clause (4), for the words "in the University area" the words "in the districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor" shall be substituted ;

(iii) in sub clause (*a*) of clause (5), the words "other than the districts of Bellary, Anantapur, Cuddapah, Kurnool and Chittoor" shal be omitted ; and

(iv) in clause (6), for the words "of the University area" the words "of any of the districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor" shall be substituted.

3. In section 18 of the said Act— Amendment of section 18, Madras Act II of 1926.

(1) for the head "Class I—*Ex-officio* Member

The Director of Public Instruction" the head "Class I—*Ex-officio* Members

(1) the Director of Public Instruction

(2) the Financial Secretary to the Local Government"; and

(2) in clause (3) of "Class II—Other Members" for the words "two persons" the words "three persons" shall be substituted.

4. After section 19 of the said Act, the following sections shall be inserted, namely:— Insertion of new sections 19-A and 19-B in Madras Act II of 1926.

"19-A. There shall be constituted a Finance Committee which shall consist of the following persons, namely:— Constitution of the Finance Committee.

(1) the Vice-Chancellor;

(2) the Financial Secretary to the Local Government;

(3) One member appointed by the Syndicate from among its members, provided that no one who is nominated to the Syndicate by the Chancellor shall be eligible for appointment under this clause; and

(4) one member nominated by the Chancellor from among the three persons nominated by him to the Syndicate.

19-B. The financial estimates of the University, its accounts and all proposals involving expenditure for which no provision has been made in the budget or involving expenditure in excess of the amount provided in the budget of the year shall be referred to the Finance Committee for scrutiny and opinion before they are taken up for final consideration by the Syndicate: Financial estimates, etc., of the University to be referred to the Finance Committee for scrutiny and opinion.

Provided that the Vice-Chancellor may, in cases of emergency, for reasons to be recorded in writing, incur any expenditure for which no provision has been made in the budget or which is in excess of the amount provided in the budget without such previous reference to the Finance Committee."

5. In section 37 of the said Act— Amendment of section 37, Madras Act II of 1926.

(i) the word "and" occurring at the end of clause (1) shall be omitted; and

(ii) at the end of clause (2) the following shall be inserted, namely:— "and

(3) an annual block grant of not less than one and a half lakhs of rupees made by the Local Government for the general expenditure of the University each year."

6. After section 37 of the said Act, the following section shall be inserted, namely:— Insertion of new sections 37-A, 37-B and 37-C in Madras Act II of 1926.

"37-A. (1) The University shall have a fund called the Foundation Fund. Foundation Fund.

(2) The Foundation Fund shall consist of:

(*a*) the sum of twenty-seven lakhs of rupees which shall be given to it by the Local Government;

(*b*) any contributions to this fund which may be made by the Local Government, the Government of India, any local or other public body, or others;

(*c*) any contributions to this fund which may be made by the University; and

(*d*) the sum of three lakhs and eighty-five thousand rupees in securities and cash which stands to the credit of the Foundation Fund of the University.

(3) The Foundation Fund shall be invested, and be kept invested, in securities, issued or guaranteed by the Government of India, or by Local Governments in British India, and such investments shall not be varied without the consent of the Chancellor.

(4) The corpus of the Foundation Fund shall be kept intact but the interest thereon may be utilized for the purposes of the University.

Constitution of other funds, etc.

37-B. The University shall have such other funds and maintain such accounts as the senate may determine.

Contribution by Government to the University for buildings and equipment.

37-C. The Local Government shall, subject to such conditions as may be agreed upon between them and the University, give for the buildings and equipment of the University a sum of seven and a half lakhs of rupees to which they may add such further sums as they may deem fit from time to time."

THE SEVVALPATTI IMPARTIBLE ESTATE ACT, 1930.

ACT NO. IX OF 1930.

[1*st June*, 1930.]

An Act to declare the Sevvalpatti Estate to be an impartible estate within the meaning of the Madras Impartible Estates Act II of 1904.

Preamble.

WHEREAS it is expedient to declare that the Sevvalpatti Estate is an impartible estate and that its proprietor cannot exercise unrestricted powers of alienation in respect thereof; And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act, It is hereby enacted as follows:—

Short title.

1. This Act may be called THE SEVVALPATTI IMPARTIBLE ESTATE ACT, 1930.

The Sevvalpatti Estate to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

2. Notwithstanding any decision of court, rule of law or enactment to the contrary, the Sevvalpatti Estate in the Ramnad and Tinnevelly districts is hereby declared to be an impartible estate within the meaning of the Madras Impartible Estates Act II of 1904 and shall in the hands of the present owner as well as his heirs and successors, be subject to the provisions of that Act.

3. This Act shall not affect any alienation made or debt incurred before the coming into force of this Act. Savings.

THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT) ACT, 1930.

ACT No. X OF 1930.

[17th June, 1930.]

An Act to amend the Madras District Municipalities Act, 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920; Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT) ACT, 1930. Short title.

2. (1) In the Madras District Municipalities Act, 1920 (hereinafter referred to as 'the said Act'), for the words 'Governor in Council' wherever they occur, the words 'Local Government' shall be substituted. Amendment of certain provisions of Madras Act V of 1920.

(2) The provisions of the said Act specified in the first two columns of the annexed Schedule are hereby amended to the extent and in the manner specified in the third and fourth columns thereof.

3. For sub-section (2) of section 1 of the said Act, the following sub-section shall be substituted, namely:— Amendment of section 1, Madras Act V of 1920.

"(2) It extends to the whole of the Presidency of Madras except the City of Madras."

4. In section 3 of the said Act— Amendment of section 3, Madras Act V of 1920.

(i) clause (1) shall be re-numbered as clause (1-B) and the following shall be inserted as clauses (1) and (1-A) respectively:—

'(1) "Adi-Dravida" means any person professing the Hindu religion and belonging to any of the following communities, namely, the Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans and Holeyas, or to any other community that may be prescribed; "Adi-Dravida."

(1-A) "Anglo-Indian" means any person not being a European, who is— "Anglo-Indian."

(i) of European descent in the male line, or

(ii) of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America';

(ii) in clause (7) the words 'in the office of an elected councillor, vice-chairman or chairman' shall be omitted.

(iii) for clause (8), the following clause shall be substituted, namely:—

"Company."

'(8) " Company " means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British Possession, and includes any firm or association carrying on business in the Presidency of Madras whether incorporated or not and whether its principal place of business is situated in the said Presidency or not ';

(iv) after clause (8), the following clauses shall be inserted, namely :—

"Election authority,"

'(8-A) "Election authority" means such authority not being the chairman or vice-chairman or a councillor as may be prescribed;

'European",

(8-B) "European" means any person of European descent who either was born in or has a domicile in the United Kingdom or in any British Possession or in any State of India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile' ;

(v) after clause (11), the following clause shall be inserted, namely :—

"Indian Christian".

'(11-A) "Indian Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion'. ;

(vi) after clause (12) the following clauses shall be inserted. namely :—

"Legislative Council."

'(12-A) "Legislative Council" means the Legislative Council of the Governor of Madras ;

"Local authority."

(12-B) "Local authority" includes a cantonment authority' ;

(vii) for clause (16), the following clause shall be substituted, namely:—

"Ordinary vacancy." "Ordinary election."

'(16) "Ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary . election" means an election held on the occurrence of an ordinary vacancy' ;

(viii) in clause (21), the words 'over which the public have a right of way' occurring after the words 'whether a thoroughfare or not' shall be placed before those words ; and

(ix) in clause (25), for the words 'return thereto' the words 'return to such house' shall be substituted.

Amendment of section 4, Madras Act V of 1920.

5. For sub-section (5) of section 4 of the said Act, the following sub-section shall be substituted, namely :—

"(5) If any local area in which the Madras Local Boards Act, 1920, is in force is constituted as or included in a municipality, the Local Government may pass such orders as they may deem fit as to the transfer to the council of such municipality or disposal otherwise of the assets or institutions of any local board in the local area and as to the discharge of the liabilities, if any, of such local board relating to such assets or institutions."

Amendment of section 7, Madras Act V of 1920.

6. For sub-sections (2) and (3) of section 7 of the said Act, the following sub-sections shall be substituted, namely :—

"(2) All the councillors of every municipality shall be elected.

(3) In any municipality, the Local Government may in their discretion by notification from time to time reserve seats for

(*a*) Muslims,

(*b*) Indian Christians,

(*c*) Adi-Dravidas,

(*d*) Europeans,

(*e*) Anglo-Indians, or

(*f*) Women

and determine the number of such seats :

Provided that the total number of seats so reserved shall not exceed one-fourth of the strength fixed for the municipal council under sub-section (1) :

Provided further that no seat shall be reserved for any of the communities mentioned in clauses (*a*) to (*e*) if at the last census such community constituted more than one-half of the total population of the municipality.

(4) In reserving seats for the communities mentioned in clauses (*a*) to (*e*) of sub-section (3) the Local Government shall have due regard to their number and importance.

(5) Nothing contained in sub-section (3) shall be deemed to prevent members of any community or women, for whom seats have been reserved thereunder in any municipal council, from standing for election to the non-reserved seats in the council."

7. In section 8 of the said Act— Amendment of section 8, Madras Act V of 1920.

(i) in sub-section (1)—

(*a*) the word 'elected' shall be omitted ; and

(*b*) after the words 'save as otherwise expressly provided,' the words 'in this Act' shall be inserted ; and

(ii) in sub-section (2)—

(*a*) for the words 'Vacancies arising by efflux of time', the words 'Ordinary vacancies' and for the words 'an elected councillor' the words 'a councillor' shall be substituted ;

(*b*) for the word 'chairman' the words 'election authority' shall be substituted ; and

(*c*) between the words 'on such' and the word 'days' the words 'day or' shall be inserted ;

(iii) to the same sub-section, the following proviso shall be added, namely :—

"Provided that the Local Government may for sufficient cause direct or permit the holding of any ordinary election after the end of September";

(iv) sub-sections (3) and (4) shall be re-numbered as (4) and (5) respectively and the following shall be inserted as sub-section (3) namely :—

"(3) A councillor elected at an ordinary election held after the occurrence of a vacancy shall enter upon office forthwith but shall hold office only so long as he would have been entitled to hold office if he had been elected before the occurrence of the vacancy" ; and

(v) in sub-section (4) as re-numbered, for the words 'an elected councillor' the words 'a councillor' and for the word 'chairman' the words 'election authority' shall be substituted.

Substitution of new section for section 9, Madras Act V of 1920.

8. For section 9 of the said Act, the following section shall be substituted, namely :—

Procedure when no councillor is elected.

"9. (1) If at an ordinary or casual election held under section 8, no councillor is elected, a fresh election shall be held on such day as the election authority may fix.

(2) If at such fresh election no councillor is elected, the council may in the manner prescribed elect a qualified person to fill the vacancy.

(3) The term of office of a councillor elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be."

Repeal of section 10, Madras Act V of 1920.

9. Section 10 of the said Act shall be omitted.

Substitution of new section for section 11, Madras Act V of 1920.

10. For section 11 of the said Act, the following section shall be substituted, namely :—

No councillor to receive remuneration.

"11. No councillor shall receive or be paid from the funds at the disposal of or under the control of the council any salary or other remuneration for services rendered by him in any capacity whatsoever."

Substitution of new section for section 12, Madras Act V of 1920.

15. For section 12 of the said Act, the following sections shall be substituted, namely :—

The chairman and vice-chairman of the municipality.

"12. (1) Every council shall elect one of its members to be its chairman.

(2) Subject to the sanction of the Local Government, the council may fix a salary for the chairman and the amount thereof. Except as provided in this sub-section, no chairman shall receive any salary or other remuneration.

(3) The council shall elect one of its members other than the chairman to be its vice-chairman.

(4) A chairman shall be deemed to have vacated his office on the expiry of his term of office as a councillor or on his otherwise ceasing to be a councillor.

(5) A vice-chairman shall be deemed to have vacated his office—

(i) on the expiry of his term of office as a councillor or on his otherwise ceasing to be a councillor, or

(ii) on his election as chairman.

(6) When the office of chairman is vacant, the vice-chairman shall exercise the functions of the chairman until a new chairman assumes office.

(7) When the office of chairman is vacant and there is either a cacancy in the office of vice-chairman or the vice-chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the revenue divisional officer shall, after giving notice of not less than seven clear days to the councillors, convene a meeting for the election of a chairman and until a new chairman or vice-chairman is elected and assumes office, or the vice-chairman returns to jurisdiction or recovers from his incapacity as the case may be, the revenue divisional officer shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be ex officio member and chairman of the council.

(8) An outgoing chairman or vice-chairman is eligible for re-election.

Explanation.—A new chairman or vice-chairman shall be deemed to have assumed office on his being declared elected as such.

Procedure when no chairman or vice-chairman is elected.

12-A. If at an election held under section 12 no chairman or vicechairman is elected, a fresh election shall be held."

Amendment of section 13, Madras Act V of 1920.

12. In clause (*a*) of section 13 of the said Act, the words 'councillors and' shall be omitted.

Amendment of section 14, Madras Act V of 1920.

13. Sub-section (*a*) of section 14 of the said Act shall be omitted and sub-section (*b*) re-numbered as section 14.

Amendment of section 16, Madras Act V of 1920.

14. In section 16 of the said Act, the words 'and attention' shall be omitted.

Repeal of section 17, Madras Act V of 1920.

15. Section 17 of the said Act shall be omitted.

Substitution of new section for section 18, Madras Act V of 1920.

16. For section 18 of the said Act, the following section shall be substituted, namely:—

Delegation and devolution of functions of chairman.

"18. (1) The chairman may, by an order in writing, delegate any of his functions to the vice-chairman:

Provided that he shall not delegate any functions which the municipal council expressly forbids him to delegate.

(2) If the chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions, except those of promoting, withholding promotion from, reducing, removing or dismissing any municipal officer or servant, shall, during such absence or incapacity, devolve on the vice-chairman:

Provided that where the absence from jurisdiction of the chairman is within the Presidency of Madras and is on business

connected with the municipality, the chairman's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (1), devolve on the vice-chairman.

(3) If the vice-chairman also has been continuously absent from jurisdiction for more than fifteen days or is incapacitated or if the office of vice-chairman is vacant, the chairman may, by an order in writing, delegate any of his functions to any councillor who shall be styled 'chairman delegate' during the period of delegation:

Provided that—

(i) when an order of delegation made under this sub-section is in force, no further order of delegation of any functions shall be made in favour of any other than the councillor in whose favour the order in force was made;

(ii) no delegation under this sub-section shall, without the special sanction of the council, be made for any period exceeding in the aggregate ninety days in any year in the case of an unpaid chairman and fifteen days in any year in the case of a paid chairman; and

(iii) every order made under this sub-section shall be communicated forthwith to the council and to the district collector.

(4) Subject to any restrictions that the council may impose, the chairman may, by an order in writing, delegate any of his executive functions to any officer or servant of the council or to any officer of Government.

(5) The exercise or discharge of any functions delegated under sub-sections (1), (3) and (4) shall be subject to such restrictions, limitations and conditions if any as may be laid down by the chairman and shall also be subject to his control and revision. The chairman shall also have power to control and revise the exercise or discharge of any functions devolving on the vice-chairman under sub-section (2)."

Amendment of section 20, Madras Act V of 1920.

17. In sub-section (2) of section 20 of the said Act, after the word 'resolutions' the word 'and' shall be inserted.

Amendment of section 21, Madras Act V of 1920.

18. In section 21 of the said Act, the words 'record, plan, correspondence or other' shall be omitted.

Substitution of new section for section 23, Madras Act V of 1920.

19. For section 23 of the said Act, the following section shall be substituted, namely :—

Appointment of committees.

"23. A council may constitute committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them, or may appoint individual councillors or committees to inquire into and report or advise on any matters which it may refer to them."

Amendment of section 24, Madras Act V of 1920.

20. In section 24 of the said Act—

(i) in the first sentence, the words 'of either sex' shall be omitted : and

(ii) in the third sentence, for the word 'sex' the word 'residence' shall be substituted.

21. In section 25 of the said Act— Amendment of section 25, Madras Act V of 1920.

(i) the word 'supplementary' before the word 'regulations shall be omitted ;

(ii) for clause (*c*), the following clause shall be substituted, namely :—

"(*c*) the preservation of order and the conduct of proceedings at meetings and the powers which the chairman may exercise for the purpose of enforcing his decisions on points of order ;"

(iii) for clause (*e*), the following clause shall be substituted, namely :—

"(*e*) the constitution and procedure of committees ;"

(iv) clauses (*f*) and (*g*) shall be re-lettered as (*g*) and (*h*) respectively, and the following shall be inserted as clause (*f*) namely :—

"(*f*) the delegation of its powers, duties or functions—

(*i*) to the chairman, a councillor, an officer or servant of the council or an officer of Government or

(*ii*) to a committee constituted under clause (*e*) or to its chairman or to any one or more of its members."

22. For section 26 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 26, Madras Act V of 1920.

"26. (1) A council may, and if so required by the Local Government shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible. Appointment of joint committee.

(2) A joint committee may include persons who are not members of the local authorities concerned but who may in their opinion possess special qualifications or special interest for serving on such committee :

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint committee.

(3) The constitution of a joint committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections (6) and (7), have effect unless assented to by each of the local authorities concerned.

(4) The regulations shall determine—

(*a*) the total number of members of the joint committee ;

(*b*) the number who shall be members of the local authorities concerned and the number who may be outsiders ;

(*c*) the persons who shall be members of the joint committee or the manner in which they shall be elected or appointed ;

(*d*) the person who shall be chairman of the joint committee or the manner in which he shall be elected or appointed ;

(*e*) the term of office of members and chairman ;

(*f*) the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint committee ; and

(*g*) the procedure of the joint committee.

(5) Regulations made under sub-sections (3) and (4) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.

(6) If the Local Government take action under sub-section (1), they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-sections (3) and (4).

(7) If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to the Local Government whose decision shall be final."

Amendment of section 27, Madras Act V of 1920.

23. In section 27 of the said Act, the words 'and appointments' shall be omitted.

Amendment of section 28, Madras Act V of 1920.

24. In section 28 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Every meeting of the council shall be presided over by the chairman ; in his absence, by the vice-chairman ; and in the absence of both the chairman and the vice-chairman, by a councillor chosen by the meeting to preside for the occasion "; and

(ii) in sub-section (3), after the words 'for that meeting' the words 'and during the period that he presides over it' shall be inserted.

Repeal of section 29, Madras Act V of 1920.

25. Section 29 of the said Act shall be omitted.

Amendment of section 30, Madras Act V of 1920.

26. In section 30 of the said Act—

(i) in sub-sections (2) and (3), for the words 'such person' wherever they occur, the words 'such councillor' shall be substituted ; and

(ii) after sub-section (4), the following sub-section shall be inserted, namely :—

"(5) the councillor concerned shall not be entitled to vote on the question referred to in sub-section (3), and the chairman concerned shall not be entitled to vote on the motion referred to in sub-section (4)."

Amendment of section 31, Madras Act V of 1920.

27. In section 31 of the said Act—

(i) after the words 'other than the chairman,' the words 'and any vice-chairman' shall be inserted ; and

(ii) the following sentence shall be added at the end, namely :—

" Such resignation shall take effect in the case of a councillor or vice-chairman from the date on which it is received by the chairman and in the case of a chairman from the date on which it is placed before the council."

Substitution of new section for section 32, Madras Act V of 1920.

28. For section 32 of the said Act, the following section shall be substituted, namely :—

"32. No act of a municipal council or of a committee thereof or of any person acting as chairman, vice-chairman or member of the Municipal council or committee shall be deemed to be invalid by reason only of a defect in the establishment of the municipality or committee, or on the ground that the chairman, vice-chairman or any member of the council or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of chairman, vice-chairman or member of the council or committee." Acts of municipal council, etc not to be invalidated by informality, etc.

29. In sub-section (3) of section 33 of the said Act, after the word 'report' the words 'and the resolutions thereon, if any' shall be inserted. Amendment of section 33, Madras Act V of 1920.

30. In sub section (2) of section 34 of the said Act— Amendment of section 34 Madras Act V of 1920.

(i) in clause (*a*), for the words 'municipal council,' the words 'council or chairman' shall be substituted; and the words 'record, correspondence, plan or other' shall be omitted;

(ii) in clause (*b*), after the word 'council' the words 'or chairman' shall be inserted;

(iii) in clause (*c*), after the word 'council' the words 'or chairman' and before the word 'information' the word 'any' shall be inserted; and

(iv) in clause (*d*)—

(*a*) after the word 'council' the words 'or chairman' shall be inserted;

(*b*) for the words 'he may' the words 'they or he may' shall be substituted; and

(*c*) after the word 'its' the words 'or his' shall be inserted.

31. For section 36 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 36, Madras Act V of 1920.

"36. (1) The Local Government may, by order in writing— Power to suspend or cancel resolution, etc., under Act.

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted or

(ii) prohibit the doing of any act which is about to be done or is being done

in pursuance or under colour of this Act, if, in their opinion,

(*a*) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized or

(*b*) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or

(*c*) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that the Local Government shall before taking action under this section on any of the grounds referred to in clauses (*a*) and

(*b*) give the authority or person concerned an opportunity for explanation.

(2) If, in the opinion of the district collector, immediate action is necessary on any of the grounds referred to in clause (*c*) of sub-section (1) he may suspend the resolution, order, licence, permission or act, as the case may be and report to the Local Government who may thereupon either rescind the collector's order or after giving the authority or person concerned a reasonable opportunity of explanation, direct that it continue in force with or without modification permanently or for such period as they think fit."

Amendment of section 38, Madras Act V of 1920.

32. In section 38 of the said Act—

(i) in sub-section (2), the words 'registers, books, accounts and other' shall be omitted; and

(ii) in sub-section (3), the words 'records, accounts and other' shall be omitted.

Substitution of new sections for section 40, Madras Act V of 1920.

33. For section 40 of the said Act, the following sections shall be substituted, namely:—

Power of Local Government to remove chairman or vice-chairman.

"40. (1) The Local Government may, by notification, remove any chairman or vice-chairman who in their opinion wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder or abuses the powers vested in him.

(2) The Local Government shall, when they propose to take action under sub-section (1), give the chairman or vice-chairman concerned an opportunity for explanation and the notification issued under the said sub-section shall contain a statement of the reasons of the Local Government for the action taken.

Motion of no-confidence in chairman or vice-chairman.

40-A. (1) A motion expressing want of confidence in the chairman or in the vice-chairman may be made by any councillor subject to the following restrictions, namely:—

(*a*) Leave of the council to make the motion shall be asked for before the business entered in the agenda for the day is taken up.

(*b*) The councillor asking for leave shall at the time of asking for leave hand to the person presiding a written notice of the motion which he proposes to make.

(2) The person presiding shall then read the motion to the council and request those councillors who are in favour of the leave being granted to rise in their places. If less than one-third of the sanctioned strength of the council rise accordingly, the person presiding shall inform the councillor that he has not the leave of the council. If not less than one-third of the sanctioned strength of the council rise, the person presiding shall intimate that leave is granted and that the motion will be taken on such day and time as he may appoint. The day appointed shall not be less than six clear days nor more than fifteen clear days from the day on which leave is asked.

(3) No debate on any motion under this section shall be adjourned. Such debate, if not earlier concluded, shall automatically terminate on the expiry of three hours from the time appointed for its commencement. Upon the conclusion of the debate or upon the expiry of

the said period of three hours, as the case may be, the motion shall be put to the vote of the council.

(4) (*a*) If the motion is carried with the support of not less than two-thirds of the sanctioned strength of the council, the chairman or vice-chairman, as the case may be, shall forthwith be deemed to have vacated his office.

(*b*) If the motion is carried but not by such a majority as aforesaid and if after an interval of not less than one month, another motion expressing want of confidence in the same chairman or vice-chairman made under sub-section (1) is carried by the council, he shall forthwith be deemed to have vacated his office."

Amendment of section 41, Madras Act V of 1920.

34. In section 41 of the said Act—

(i) in sub-section (1)—

(*a*) for the words 'dissolved and reconstituted immediately' the words 'dissolved and reconstituted on such dates as the Local Government may fix in that behalf' shall be substituted ; and

(*b*) for proviso (*a*) the following proviso shall be substituted, namely :—

"(*a*) for the purpose of completing the elections to a council which has been dissolved, the Local Government may, in their discretion, from time to time, extend the time fixed by them under this sub-section for its reconstitution and" ;

(ii) after the same sub-section, the following sub-section shall be inserted, namely :—

"(1-A) Before publishing a notification under sub-section (1), the Local Government shall communicate to the council concerned the grounds on which they propose to do so, fix a reasonable period for the council to show cause against the proposal and consider its explanations and objections, if any :

Provided that where a council has disobeyed an order issued under section 36, the Local Government shall not be bound to follow the procedure laid down in this sub-section" ;

(iii) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) On the date fixed for the dissolution of the council under sub-section (1), all its members, as well as its chairman and vice-chairman, shall forthwith be deemed to have vacated their offices and fresh elections shall be held in accordance with the provisions of this Act. The newly elected councillors shall enter upon their offices on the date fixed for the reconstitution of the council" ;

(iv) in sub-section (3) –

(*a*) in clause (*a*), for the words 'the chairman and vice-chairman shall forthwith vacate their office', the words 'its chairman and vice-chairman shall forthwith be deemed to have vacated their offices' shall be substituted ; and

(*b*) clause (*c*) shall be omitted ;

(v) in sub-section (4), for the words and figures 'proviso (*a*) to section 5, sub-section (1)' the words and figures 'proviso (*a*) to sub-section (1) of section 5' shall be substituted ;

(vi) in sub-section (5), after the word and figure 'sub-section (1)' the words and figure 'or sub-section (4)' shall be added; and

(vii) after sub-section (5), the following sub-section shall be added, namely :—

"(6) When a council is dissolved or superseded under this section, the Local Government until the date of the reconstitution thereof and the reconstituted council thereafter shall be entitled to all the assets and be subject to all the liabilities of the council as on the date of the dissolution, or supersession and on the date of the reconstitution respectively."

Amendment of section 42, Madras Act V 1920.

35. In section 42 of the said Act, for the words 'power to make such contracts' the words 'all such powers' shall be substituted.

Substitution of new section for section 43, Madras Act V of 1920.

36. For section 43 of the said Act, the following section shall be substituted, namely :—

Election of municipal councillors.

"43. (1) For the purposes of election of councillors to a municipal council, the Local Government after consulting the municipal council may, by notification—

(*a*) divide the municipality into wards,

(*b*) determine the wards in which the seats, if any, reserved under sub-section (3) of section 7 shall be set apart; and

(*c*) declare for whom such seats are reserved.

(2) The wards referred to in clause (*b*) of sub-section (1) shall return, in addition to members for such reserved seats, one or more members for non-reserved seats. The number of such members shall be notified by the Local Government. All other wards shall be entitled to elect only one councillor.

(3) All the electors of a ward, irrespective of their community or sex, shall be entitled to vote at an election to any seat in that ward whether reserved or not.

(4) When issuing under sub-section (1) a notification which materially alters the existing division of a municipality into wards, the Local Government may direct that the alteration shall take effect from the date of the next ordinary elections.

(5) When the number of councillors to be returned by a ward is altered or when a new ward is formed or when an existing ward is abolished, the election authority shall, with the approval of the Local Government, determine—

(*a*) the ward which each councillor then on the council shall be deemed to represent; and

(*b*) the ward or wards in which elections shall be held to fill up the vacancies, if any, in the council."

Amendment of section 44, Madras Act V of 1920.

37. In section 44 of the said Act—

(i) sub-section (2) shall be renumbered as sub-section (5) and for sub-section (1), the following sub-sections shall be substituted, namely :—

'(1) An electoral roll for every municipality showing the names of persons qualified to vote therein shall be prepared and published by the election authority in the manner prescribed before the end of June of the year in which the ordinary vacancies are to occur.

(2) The roll so prepared and published shall be revised and a list of amendments and corrections thereto shall in like manner be prepared and published by the election authority before the end of June of every year ' and

(ii) in sub-section (4), the following words shall be inserted before the words ' shall remain ' :—

' as revised by the list of amendments and corrections, if any,' ; and

(iii) in sub-section (5) as renumbered, for the words ' final electoral roll published under this section ' the words ' electoral roll as so revised ' shall be substituted.

38. For sections 45 and 46 of the said Act, the following section shall be substituted, namely :— Substitution of new section for sections 45 and 46, Madras Act V of 1920.

" 45. (1) No person shall be included in the electoral roll as qualified to vote unless— Qualifications for voting.

(*a*) he is a British subject or a subject of a State in India

Provided that the Local Government may exclude from the scope of this restriction any alien or class of aliens ;

(*b*) he has attained the age of twenty-one years in the year preceding that in which the electoral roll is published ;

(*c*) he has been assessed in such preceding year to any tax payable to the Government of India or to the Local Government or to any local authority in the Presidency of Madras or is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces ; and

(*d*) he has resided in the municipality for one hundred and twenty days in the aggregate in such preceding year.

(2) If a company or association or the members of a family jointly or joint pattadars has or have been assessed to any tax, the company or association or the family or joint pattadars shall be treated as possessing the qualification, and the person entitled to be registered in the electoral roll shall be the secretary of the company or association or some other person duly authorized in that behalf or the member authorized by a majority of the family or of the joint pattadars, or, in the case of a joint Hindu family, either a member so authorized or in default of such authorization, the manager thereof.

(3) A person may be qualified either in his personal capacity or in the capacity of a representative of a company or association or of a joint family or of joint pattadars, but not in both capacities.

(4) Save as provided in sub-section (2), no person shall be qualified as an elector unless he possesses the necessary qualifications in his personal capacity."

Substitution of new section for section 47, Madras Act V of 1920.

39. For section 47 of the said Act, the following section shall be substituted, namely :—

Disqualifications of voters.

"47. Notwithstanding anything contained in sub-section (5) of section 44, a person who is of unsound mind, a deaf-mute or a leper shall not be entitled to vote at any election to a municipal council."

Amendment of section 48, Madras Act V of 1920.

40. In section 48 of the said Act—

(i) in sub-section (1)—

(*a*) in clause (*a*), the letter '(*a*)' at the commencement and the word ' and ' at the end shall be omitted ; and

(*b*) clause (*b*) shall be omitted ;

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) No officer of Government other than a village officer shall be qualified for election or for holding office as a councillor :

Provided that this prohibition shall not apply to the holder of any office which does not involve both of the following incidents, namely, that the incumbent—

(*a*) is a whole-time servant of the Government ; and

(*b*) is remunerated either by salary or fees :

Provided further that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section, the question shall be referred to the Local Government whose decision shall be final."

Amendment of section 49, Madras Act V of 1920.

41. In section 49 of the said Act—

(i) in sub-section (1)—

(*a*) after the words ' six months ' the words ' for any offence other than an offence of a political character or an offence not involving moral delinquency ' shall be inserted ; and

(*b*) the words ' or appointment ' shall be omitted ;

(ii) in sub-section (2)—

(*a*) in the opening paragraph for the words ' election or appointment,' the word ' election ' and for the words ' nomination, election or appointment ' the words ' nomination or election ' shall be substituted ;

(*b*) clauses (i) to (vi) shall be lettered as (*a*) to (*f*) respectively ;

(*c*) in clause (*b*) as so lettered, before the words ' an uncertificated bankrupt ' the words ' an applicant to be adjudicated a bankrupt or insolvent or ' shall be inserted ;

(*d*) in clause (*c*) as so lettered, for the words ' an incorporated company' the words ' a company ' shall be substituted ;

(*e*) the proviso to the sub-section shall be inserted as a proviso to clause (*c*) as so lettered ; and in the said proviso, for the words ' such a contract or work as aforesaid ' the words ' such contract or work ' shall be substituted ;

(*f*) after clause (*c*) as so lettered, the following clause shall be inserted, namely :—

"(*cc*) employed as paid legal practitioner on behalf of the council or as legal practitioner against the council";

(*g*) in clause (*e*) as so lettered, the words 'or appointment' shall be omitted and after the word 'effect' the words 'or has already been elected a councillor whose term of office has not yet commenced' shall be inserted; and

(*h*) for clause (*f*) as so lettered, the following clause shall be substituted, namely:—

"(*f*) the servant or employer or the official subordinate or official superior of a councillor holding office on the said date"; and

(iii) sub-section (4) shall be omitted.

42. In section 50 of the said Act— Amendment of section 50 Madras Act V of 1920.

(i) in sub-section (1)—

(*a*) in clause (*a*), before the word 'court,' the word 'criminal' and before the words 'as is described' the words 'and for such offence' shall be inserted;

(*b*) in clause (*d*), for the words and figures 'section 49, sub-section (2)' the words, figures and letter 'clause (*c*) of sub section (2) of section 49' and for the words 'an incorporated company' the words 'a company' shall be substituted and the words 'or is employed as paid legal practitioner on behalf of the council or accepts employment as legal practitioner against the council' shall be omitted;

(*c*) after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) is employed as paid legal practitioner on behalf of the council or accepts employment as legal practitioner against the council";

(*d*) for clause (*e*) the following clause shall be substituted, namely:—

"(*e*) is appointed as an officer or servant under this Act or as an honorary magistrate for the municipal town";

(*e*) in clause (*f*) after the words 'accepts employment under' the words 'or becomes the official subordinate of' shall be inserted;

(*f*) clause (*g*) shall be omitted; and

(*g*) for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) absents himself from the ordinary meetings of the council for three consecutive months commencing from the date on which he last attended such a meeting or, if, within that period less than three such meetings have been held, from three such consecutive meetings of the council held after the last ordinary meeting he attended:

Provided that no ordinary meeting from which a councillor absents himself shall be counted against him under this clause, if due notice of that meeting has not been given to him.

Explanation.—In this clause, the expression 'ordinary meeting' shall not include a meeting held under sub-rule (2) of rule 2 or under rule 3 of Schedule III";

(ii) in sub-section (3)—

(*a*) for the words and letters 'clause (*a*) or clause (*g*)' the words, figure and letter 'clause (*a*) of sub-section (1) or under section 60' shall be substituted;

(*b*) the words ' or appointed ' shall be omitted ; and

(*c*) the following sentence shall be added at the end, namely :—

" And any person elected to fill the vacancy in the interim shall on such restoration vacate office " ; and

(iii) for sub-section (4), the following sub-section shall be substituted, namely :—

" (4) Where a person ceases to be a councillor under clause (i) of sub-section (1), the chairman shall at once intimate the fact in writing to such person and report the same to the council at its next meeting. If such person applies for restoration *suo motu* to the council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the council may at the meeting next after the receipt of such application restore him to his office of councillor :

Provided that a councillor shall not be so restored more than twice during his term of office."

Amendment of section 51, Madras Act V of 1920.

43. In section 51 of the said Act—

(i) in sub-section (1)—

(*a*) the words ' or appointed ' shall be omitted ;

(*b*) for the words and figures ' section 49 or section 50 ' the words and figures ' sub-section (1) of section 48, section 49, section 50, or section 60 ' shall be substituted ; and

(*c*) after the words ' become disqualified for office ' the words and figures ' under section 50 or section 60 ' shall be inserted ;

(ii) in sub-section (2), for the words and figures ' section 49 or section 50 ' the words and figures ' sub-section (1) of section 48, section 49, section 50 or section 60 ' shall be substituted ; and

(iii) for sub-section (3), the following sub-section shall be substituted, namely :—

" (3) Pending such decision, the councillor shall be entitled to act as if he were not disqualified."

Repeal of sections 52, 53, 54, 55, 57, 58 and 59, Madras Act V of 1920.

44. Sections 52, 53, 54, 55, 57, 58 and 59 of the said Act shall be omitted.

Substitution of new section for section 60, Madras Act V of 1920.

45. For section 60 of the said Act, the following section shall be substituted, namely :—

Disqualifications of persons convicted of election offences.

" 60. Every person convicted of an offence punishable under section 56 or under Chapter IX-A of the Indian Penal Code shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of municipal councillor for a period of five years from the date of his conviction, or for such shorter period as the court may by order determine. "

Amendment of section 61 Madras Act V of 1920.

46. In sub-section (1) of section 61 of the said Act, for the word ' erections ' the word ' works ' shall be substituted.

47. In section 63 of the said Act— Amendment of section 63, Madras Act V of 1920.

(i) for the words 'with the consent of the municipal council make over to a municipal council', the words 'with the consent of a municipal council, make over to the council' and for the words 'such council' the words 'the council' shall be substituted; and

(ii) after the words 'the council shall manage', the words 'and superintend' shall be inserted.

48. In section 65 of the said Act, for the word 'purposes', the words 'any purpose' shall be substituted. Amendment of section 65, Madras Act V of 1920.

49. In section 66 of the said Act, for the words 'with the consent of the council of any municipality, transfer to any municipal council,' the words 'with the consent of a municipal council, transfer to the council' and for the words 'lawful for such council to undertake the management of the institution or the execution of the work', the words 'lawful for the council to undertake such management or execution' shall be substituted. Amendment of section 66, Madras Act V of 1920.

50. In sub-sections (1) and (2) of section 68 of the said Act, for the expression 'Rs. 500' the words 'one thousand rupees' shall be substituted. Amendment of section 68, Madras Act V of 1920.

51. In sub-section (1) of section 69 of the said Act, for the expression 'Rs. 100', the words 'one hundred rupees' shall be substituted. Amendment of section 69, Madras Act V of 1920.

52. For section 70 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 70, Madras Act V of 1920.

"70. (1) The sanction of the council shall be obtained for all proposals for fixing or altering the number, designations and grades of its officers and servants and the salaries, fees and allowances payable to them. Officers and servants of municipal council.

(2) Such proposals shall be taken into consideration by the council only at the instance of the chairman, and the council may sanction them with or without modifications:

Provided that no proposal adversely affecting any municipal officer or servant who has been in the permanent service of the municipality for more than five years and is drawing a salary of not less than fifty rupees per mensem, shall be considered except at a special meeting convened for the purpose and no such proposal shall be given effect to, unless assented to by at least one-half of the members then on the council."

53. For section 71 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 71, Madras Act V of 1920.

The secretary, the health officer and the engineer.

"71. (1) If, in any municipality, there is no salary attached to the office of chairman, a post of secretary may be sanctioned by the council.

(2) Any municipal council, by special resolution may, and every council which during three consecutive years has realized an income of one hundred thousand rupees from ordinary receipts, shall, if so required by the Local Government, sanction a post of health officer and a post of municipal engineer.

(3) The salaries of these officers shall be fixed by the municipal council subject to the approval of the Local Government.

(4) Every secretary, health officer or engineer shall devote his whole time to the duties of his office and shall not engage in any other profession, trade or business."

Amendment of section 72, Madras Act V of 1920.

54. In section 72, after sub-section (3), the following sub-section shall be added, namely :—

"(4) No such officer shall be removed from office except with the consent of the Local Government. Such consent shall be given if the removal is recommended by a resolution of the council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the council."

Substitution of new section for section 73, Madras Act V of 1920.

55. For section 73 of the said Act, the following section shall be substituted, namely :—

Filling up of appointments other than those of the health officer and the municipal engineer.

"73. Excepting the health officer and the municipal engineer, all officers and servants of a municipal council shall be appointed by the chairman in accordance with any rules which the Local Government may have made in this behalf :

Provided that in case of emergency—

(*a*) the chairman may appoint temporarily such officers and servants as may in his opinion be required for the purposes of this Act and the employment of whom for any particular work has not been prohibited by any resolution of the municipal council; and

(*b*) every appointment made under clause (*a*) shall be reported by the chairman to the council at its next meeting."

Amendment of section 74, Madras Act V of 1920.

56. In section 74 of the said Act—

(i) in the opening paragraph, for the words and figures 'provisions of sections 12, 17, 71 and 77 and any rules made by the Governor in Council' the words 'provisions of this Act and any rules which the Local Government may make in this behalf' shall be substituted;

(ii) in clause (*c*), for the words 'and acting allowances' the words 'acting allowances and travelling allowances' shall be substituted; and

(iii) in proviso (*i*), for the words 'and leave allowances, gratuity or pension granted under these regulations', the words 'leave allowances, travelling allowances, pension or gratuity provided for in such regulations' shall be substituted.

Amendment of section 75, Madras Act V of 1920.

57. In section 75 of the said Act—

(i) for the word 'fine', the words 'censure, fine, withhold promotion from' shall be substituted; and

(ii) after the words 'municipal officer or servant', the words 'in its service' shall be inserted.

58. After section 77 of the said Act, the following section shall be added, namely:— Insertion of new section 77-A in Madras Act V of 1920.

"77-A. (1) Notwithstanding anything contained in this Act, the Local Government may, by notification, constitute any class of officers or servants of municipal councils into a municipal service for the Presidency of Madras: Provincialization of any class of municipal officers or servants.

Provided that no notification shall be issued under this sub-section—

(i) unless all the municipal councils constituted under this Act have been consulted in respect thereof, and

(ii) unless a majority of the councils so consulted have passed a resolution supporting such issue.

(2) Upon the issue of a notification under sub-section (1), the Local Government shall have power, subject to the provisions of section 305-A, to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the municipal service thereby constituted and such rules may vest jurisdiction in relation to such service in the Local Government or in such other authority or authorities as may be prescribed therein."

59. In section 78 of the said Act— Amendment of section 78, Madras Act V of 1920.

(i) clause (*b*) of sub-section (1) shall be omitted and clauses (*c*) to (*f*) re-lettered as (*b*) to (*e*) respectively;

(ii) in the first proviso—

(*a*) for the words 'carrying into effect', the word 'passing' shall be substituted; and

(*b*) after the words 'publish a notice', the words 'in the district gazette and at least one vernacular newspaper' shall be inserted;

(iii) in the second proviso, for the word 'Government' occurring for the first time, the words 'the Local Government' shall be substituted; and

(iv) after the second proviso, the following additional proviso shall be inserted, namely:—

"Provided also that where any resolution under this section has taken effect for a particular year, no proposals to alter the rates or date fixed in such resolution so far as that year is concerned shall be taken into consideration by the council."

60. In section 79 of the said Act— Amendment of section 79, Madras Act V of 1920.

(i) in clause (*a*), for the words and figures 'the Indian Income-tax Act, VII of 1918', the words 'any Act of the Indian Legislature for the time being in force' shall be substituted and the words 'the tax on companies and of' shall be omitted;

(ii) in clause (*b*), for the words 'entering or leaving the municipality by railway', the words 'travelling by railway from any station notified under section 116 in or near the municipality' shall be substituted; and

(iii) to the same clause, the following proviso shall be added, namely :—

"Provided that no portion of the proceeds of any tax levied under clause (*b*) shall be expended for purposes other than making arrangements for the health and comfort of the pilgrims or the improvement or development of the municipal area."

Amendment of section 80, Madras Act V of 1920.

61. In section 80 of the said Act, for the words 'the tax or toll will be levied from a day to be specified in the notification' the words 'the date from which and the period of levy, if any, for which such tax or toll shall be levied' shall be substituted.

Amendment of section 81, Madras Act V of 1920.

62. In section 81 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) If the council by a resolution determines that a property tax shall be levied, such tax shall be levied on all buildings and lands within municipal limits save those exempted by or under this Act or any other law. The property tax may comprise—

(*a*) a tax for general purposes ;

(*b*) a water and drainage tax to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided ;

(*c*) a lighting-tax to provide for expenses connected with the lighting of the municipality by gas or electricity ;

(*d*) a scavenging-tax to provide for expenses connected with the removal of rubbish, filth or the carcasses of animals from private premises ; and

(*e*) a railway tax to be used solely for or to further the construction and maintenance of railways :

Provided that where the water and drainage tax is levied, the municipal council shall declare what proportion of the tax is levied in respect of water-works and the remainder shall be deemed to be levied in respect of drainage works and the proportion so declared shall also be specified in the notification published under section 80 :

Provided further that the railway tax shall not be levied unless its levy is determined by a resolution of the municipal council supported by not less than three-fourths of the members present at a meeting specially convened in that behalf, such resolution being confirmed after a period of six months by a like majority at a like meeting and sanctioned by the Local Government."

(ii) in sub-section (2)—

(*a*) for the words 'These taxes' at the commencement, the words 'Save as otherwise provided in this Act, these taxes' shall be substituted ; and

(*b*) for the words 'lands and buildings', the words 'lands or buildings or both' shall be substituted ; and

(iii) after sub-section (2), the following sub-sections shall be inserted, namely :—

"(3) The municipal council may, in the case of lands which are not used exclusively for agricultural purposes and are not occupied by,

or adjacent and appurtenant to, buildings, levy these taxes at such percentages of the capital value of such lands or at such rates with reference to the extent of such lands, as it may fix :

Provided that such percentages or rates shall not exceed the maxima, if any, fixed by the Local Government and that the capital value of such lands shall be determined in such manner as may be prescribed.

(4) (*a*) The municipal council may, in the case of lands used exclusively for agricultural purposes, levy these taxes at such proportions as it may fix of the annual value of such lands as calculated in accordance with the provisions of section 79 of the Madras Local Boards Act, 1920.

(*b*) If such lands be occupied by tenants, the municipal council shall levy the taxes in equal shares, from the landholder and the tenant respectively."

Amendment of section 82, Madras Act V of 1920.

63. In section 82 of the said Act—

(i) in sub-section (2), after the word 'deduction', the words 'in the case of buildings only' shall be inserted ; and

(ii) in the proviso—

(*a*) for clause (*a*), the following clause shall be substituted, namely :—

"(*a*) in the case of—

(i) any Government or railway building or (ii) any building of a class not ordinarily let, the gross annual rent of which cannot, in the opinion of the chairman, be estimated,

the annual value of the premises shall be deemed to be six per cent. of the total of the estimated value of the land and the estimated present cost of erecting the building after deducting for depreciation a reasonable amount which shall in no case be less than ten per centum of such cost ; and"; and

(*b*) in clause (*b*), after the word 'machinery' the words 'and furniture' shall be inserted.

Amendment of section 83, Madras Act V of 1920.

64. (1) Section 83 of the said Act shall be re-numbered as sub-section (1) of section 83 and in the section as re-numbered—

(i) in clause (*a*), for the words 'buildings used for educational purposes and libraries and play-grounds which are open to the public and from which no income is derived' the words 'buildings used for educational purposes including hostels, public buildings and places used for the charitable purpose of sheltering the destitute or animals, libraries and play-grounds which are open to the public and such ancient monuments protected under the Ancient Monuments Preservation Act, 1904, or parts thereof as are not used as residential quarters or as public offices', shall be substituted ;

(ii) at the end of clause (*b*), the following words shall be inserted, namely :—

" and such hospitals and dispensaries maintained by railway administrations, as may from time to time be notified by the Local Government" ;

(iii) for clause (*c*), the following clause shall be substituted, namely :—

"(c) burial and burning grounds included in the book kept at the municipal office under section 281" and

(iv) the following Explanation shall be inserted at the end, namely:—

"*Explanation.*—The exemption granted under this section shall not extend to residential quarters attached to schools and colleges not being hostels or to residential quarters attached to hospitals, dispensaries and libraries."

(2) To the section as re-numbered, the following sub-sections shall be added, namely:—

"(2) The water and drainage tax shall not be levied on any land used exclusively for agricultural purposes and not deriving any benefit from the water or drainage works on account of which the tax is imposed.

(3) The municipal council may, with the previous sanction of the Local Government, exempt any particular part of a municipality from the payment of the whole or a portion of the water and drainage tax or of the lighting tax on the ground that such area is not deriving full benefit from the water-supply and drainage or from the lighting system.

(4) The municipal council may exempt any building or land from the whole or any portion of the scavenging tax if it is satisfied that the owner or occupier has made efficient arrangements for the daily removal therefrom of rubbish, filth and the carcasses of animals.

(5) The municipal council may by a general resolution exempt any building or land from the property tax—

(*i*) if the annual value of the same does not exceed a sum specified in the said resolution, such sum not being greater than eighteen rupees; and

(*ii*) the proprietor does not own any other building or land assessed to the property tax and is not liable to profession or income-tax."

Substitution of new section for section 84, Madras Act V of 1920.

65. For section 84 of the said Act, the following section shall be substituted, namely:—

Taxation to be uniform.

"84. (1) The rate of any class of property tax on lands when levied on their annual value may be lower than the rate of the same class of property tax on buildings but either rate shall be uniform throughout the municipal area on all buildings or on all lands, liable to be taxed on their annual value, as the case may be:

Provided that the aggregate property tax leviable in the case of lighthouses, piers, wharves, jetties, and passenger sheds, latrines, cart-stands, retiring rooms and platforms belonging to a railway administration shall not exceed four per cent. of their annual value.

(2) The rate of any class of property tax shall be uniform throughout the municipal area on all lands liable to be taxed on their capital value."

Substitution of new section for section 86, Madras Act V of 1920.

66. For section 86 of the said Act, the following section shall be substituted, namely:—

"86. The property-tax shall be levied every half-year and shall, save as otherwise expressly provided in Schedule IV, be paid by the owner of the assessed premises within thirty days after the commencement of the half-year." Property-tax when payable.

67. For section 87 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 87, Madras Act V of 1920.

"87. (1) When any building whether ordinarily let or occupied by the owner himself has been vacant and unlet for thirty or more consecutive days in any half-year, the chairman shall remit so much not exceeding one-half of such portion of the tax as relates to the building only as is proportionate to the number of days during which the building was vacant and unlet in the half-year. Vacancy remission.

(2) Every demand for remission under sub-section (1) shall be made during the half-year in respect of which the remission is sought or in the following half-year and not afterwards.

(3) (*a*) No demand for such remission shall be entertained unless the owner of the building or his agent has previously thereto given notice to the chairman of the building being vacant and unlet and the period in respect of which the remission is made shall be calculated from the date of delivery of such notice.

(*b*) Every such notice shall expire with the half-year during which it is so delivered and shall have no effect thereafter."

68. For sections 89 and 90 of the said Act, the following sections shall be substituted, namely :— Substitution of new section for sections 89 and 90, Madras Act V of 1920.

"89. (1) (*a*) If any building in a municipality is constructed or reconstructed, the owner shall give notice thereof to the chairman within fifteen days from the date of completion or occupation of the building whichever is earlier. Owner's obligation to give notice of construction, reconstruction or demolition of building.

(*b*) If such date falls within the last two months of a half-year, the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the building only for that half-year.

(*c*) If such date falls within the first four months of a half-year, the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of so much not exceeding a half of the tax or enhanced tax, as the case may be, payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(2) (*a*) If any building in a municipality is demolished or destroyed, the owner shall, until notice thereof is given to the chairman, be liable for the payment of the property-tax which would have been leviable had the building not been demolished or destroyed.

(*b*) If such notice is given within the first two months of a half-year, the owner shall be entitled to a remission of the whole of the tax payable in respect of the building only, for that half-year.

(c) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be.

Remission of tax in areas included or excluded in the middle of a half-year.

90. (1) If any area is included within a municipality the owner of every building or land in such area shall—

(a) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any property tax in respect thereof for that half-year ; and

(b) if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(2) If any area is excluded from a municipality the owner of every building or land in such area shall be entitled—

(a) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year ; and

(b) if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the property-tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(3) No remission shall be granted under sub-section (2) in respect of any building or land unless an application for such remission is made to the chairman within three months from the date of the exclusion of the area in which the building or land is situated."

Amendment of section 91, Madras Act V of 1920.

69. In sub-section (1) of section 91 of the said Act—

(a) for the words 'within a week after the service of the notice' the words 'within thirty days after the service of the notice where the notice is served upon the Government, a railway administration or a company and within seven days after such service in other cases' shall be substituted ; and

(b) after the words 'measurements of the land,' the words 'and with such other information as the chairman may require' shall be inserted.

Repeal of section 92, Madras Act V of 1920.

70. Section 92 of the said Act and the heading thereof shall be omitted.

Substitution of new section for section 93, Madras Act V of 1920.

71. For section 93 of the said Act, the following section shall be substituted, namely :—

Profession tax.

"93. (1) If the council by a resolution determines that a profession tax shall be levied—

every company which, after the date specified in the notification published under section 80, transacts business in the municipality for not less than sixty days in the aggregate in any half-year ; and every person who, after the said date, in any half-year—

(a) exercises a profession, art, or calling or transacts business or holds any appointment, public or private—

(i) within the municipality for not less than sixty days in the aggregate, or

(ii) without the municipality but who resides in the municipality for not less than sixty days in the aggregate, or

(b) resides in the municipality for not less than sixty days in the aggregate and is in receipt of any pension or income from investments, shall pay a half-yearly-tax assessed in accordance with the rules in Schedule IV.

(2) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.

(3) If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, or under the Madras Local Boards Act, 1920, or the companies or profession tax levied under the Madras City Municipal Act, 1919, or any tax of the nature of a profession tax imposed under the Cantonments Act, 1924, for the same half-year to any municipal council or local board or cantonment authority in the Presidency of Madras, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other municipal council, local board or cantonment authority more than the difference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half-year under this Act, or any of the aforesaid Acts.

(4) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the Local Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Local Government shall be final."

72. For section 94 of the said Act the following sections shall be substituted, namely :— Substitution of new sections for section 94, Madras Act V of 1920.

"94. The profession tax leviable from a firm, association or joint Hindu family may be levied from any adult member of the firm, association or family. Liability of members of firms, associations and joint Hindu families to profession tax.

94-A. (1) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in a municipality, such company or person shall be deemed to transact business in the municipality and such servant or agent shall be liable for the profession tax, in respect of the business of such company or person, whether or not such servant or agent has power to make binding contracts on behalf of such company or person. Liability of servants or agents to profession tax.

(2) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax, on the same income as that of the principal."

Substitution of new section for section 95, Madras Act V of 1920.

73. For section 95 of the said Act and the heading occurring before that section, the following sections shall be substituted, namely:—

Service of notice on failure of payment of tax.

"95. If the profession tax due from any company or person is not paid, the chairman shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.

Statements, returns, etc., to be confidential.

95-A. All statements made, returns furnished or accounts or documents produced in connection with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public."

Amendment of section 96, Madras Act V of 1920.

74. In section 96 of the said Act—

(i) for the words 'persons occupying such building or land,' the words 'persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers' shall be substituted; and

(ii) the word 'trade' occurring after the words 'profession, art' shall be omitted.

Amendment of section 97, Madras Act V of 1920.

75. In clause (*b*) of section 97 of the said Act, for the words 'incorporated company' the word 'company' shall be substituted.

Amendment of section 98, Madras Act V of 1920.

76. For sub-section (1) of section 98 of the said Act, the following sub-section shall be substituted, namely:—

"(1) If the council by a resolution determines that a tax on carriages and animals shall be levied, the chairman shall levy the said tax half-yearly on carriages and animals kept within the municipality which are of the kinds specified in Schedule IV."

Amendment of section 99, Madras Act V of 1920.

77. In section 99 of the said Act—

(i) in sub-section (1), the words 'or let out for hire' shall be omitted; and

(ii) in sub-section (3), for the words 'is leviable' the words 'shall be leviable' shall be substituted.

Amendment of section 100, Madras Act, V of 1920.

78. The proviso to clauses (*d*), (*e*) and (*f*) of section 100 of the said Act shall be omitted and to the said section the following proviso shall be added, namely:—

"Provided that the exemption under clauses (*d*), (*e*) and (*f*) shall not extend to any officer or soldier who is not compelled by the exigencies of military duty to reside within municipal limits nor to more than one horse, one motor-cycle, or one bicycle, as the case may be, for every such officer or soldier."

Amendment of section 102, Madras Act V of 1920.

79. In section 102 of the said Act—

(i) in sub-section (1), for the words 'carriage or animal tax' the words 'tax on carriages and animals' shall be substituted; and

(ii) after sub-section (2), the following sub-section shall be added, namely:—

"(3) On the expiry of the period of one week referred to in sub-section (2) the chairman shall cause a notice to be served on such

person requiring him to pay within fifteen days of the date of such service the sum for which, in the opinion of the chairman, such person is liable on account of the tax on carriages and animals."

80. In section 105 of the said Act— (Amendment of section 105, Madras Act V of 1920.)

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If the council by a resolution determines that a tax shall be levied on carts, the chairman shall levy the said tax half-yearly at the rate (which shall not exceed four rupees per cart per half-year), fixed by the council and specified in the notification published under section 80 in pursuance of such resolution and from the date specified in such notification in respect of all carts kept within the municipality"; and

(ii) in sub-section (6), for the word 'tax-payer,' the words 'person who pays any tax to the municipality' shall be substituted.

81. In section 106 of the said Act, the words 'or let out for hire' shall be omitted. (Amendment of section 106, Madras Act V of 1920.)

82. After section 106 of the said Act, the following heading and section shall be inserted, namely:— (Insertion of new section 106-A in Madras Act V of 1920.)

"*Taxes leviable under sections* 98 *and* 105.

106-A. Where the Madras Hackney Carriage Act, 1911, is in force in any area of a municipality, the person appointed to perform the functions of the Commissioner under the said Act in respect of such area shall, before registering any hackney carriage thereunder satisfy himself that the municipal council has received payment of the tax, if any, due under section 98 or section 105, as the case may be, on account of the last preceding half-year and the current half-year." (Prepayment of municipal tax condition precedent to registration under Madras Act V of 1911)

83. In sub-section (1) of section 108 of the said Act— (Amendment of section 108, Madras Act V of 1920.)

(i) for the words 'If the chairman of a hill station municipality publishes a notification under section 80,' the words 'If a hill station municipal council by a resolution determines' and for the words 'he shall collect,' the words 'the chairman shall collect' shall be substituted; and

(ii) after the words 'specified in the notification,' the words and figures 'published under section 80 in pursuance of such resolution' shall be inserted.

84. In section 110 of the said Act— (Amendment of section 110, Madras Act V of 1920.)

(i) In the opening paragraph, for the words and figures 'If the chairman publishes a notification under section 80', the words 'If the council by a resolution determines' and for the words 'from the date specified in the notification', the words and figures 'published under section 80 in pursuance of such resolution and from the date specified in such notification' shall be substituted; and

(ii) in the proviso—

(*a*) the word 'or' occurring at the end of clause (*d*) shall be omitted;

(*b*) the word 'or' shall be added at the end of clause (*e*); and

(*c*) after clause (*e*), the following clause shall be added namely:—

"(f) carrying a member of the Auxiliary Force, India, or of the Indian Territorial Force in uniform and on duty or proceeding to or returning from duty."

Amendment of section 111, Madras Act V of 1920.

85. (1) In sub-section (1) of section 111 of the said Act, for the words 'may construct toll-bars and toll-stations' the words 'shall construct toll stations and may construct toll-bars' shall be substituted.

(2) To the same section the following proviso shall be added, namely :—

"Provided that—

(a) no toll-stations shall be constructed on the boundary between contiguous municipalities, and

(b) the Local Government may either generally or in any particular case issue such orders as they may deem fit for regulating the number and location of toll-stations, and determining in the case of neighbouring local authorities which of the local authorities shall be in charge of particular toll-stations and how much of the revenue realized by any such local authority from a toll-station or toll-stations in its charge shall be paid to another neighbouring local authority."

Amendment of section 114, Madras Act V of 1920.

86. In section 114 of the said Act, the words 'toll-bar or' in both the places where they occur, shall be omitted.

Amendment of section 115, Madras Act V of 1920.

87. In section 115 of the said Act—

(i) In sub-section (1), for the words and figures 'tax payable under the Indian Income-tax Act, 1918', the words 'income-tax payable under any Act of the Indian Legislature for the time being in force' shall be substituted ;

(ii) in sub-section (3), for the words and figures 'the Indian Income-tax Act, 1918', the words and figures 'the Indian Income-tax Act, 1922,' shall be substituted ; and

(iii) in sub-section (4), for the words and figures 'section 36 of the said Act' the words and figures 'section 46 of the Indian Income-tax Act, 1922,' shall be substituted.

Substitution of new section for section 116, Madras Act V of 1920.

88. For section 116 of the said Act, the following section shall be substituted, namely :—

Levy of pilgrim tax.

"116. (1) Where a municipality is resorted to by pilgrims, and the occasions for pilgrimage occur at intervals of years or only once or twice in a single year, a tax on persons leaving the municipality or its neighbourhood by railway, shall be levied only for a specified period in respect of each such occasion. Where occasions for pilgrimage are more frequent or a municipality is a place of pilgrimage of perennial resort, the tax may be levied throughout the year.

(2) The occasion and the period of levy of the tax shall, in consultation with the railway administrations concerned and with the previous approval of the Local Government, be determined by the municipal council.

(3) If the council resolves that the tax shall be levied, such tax shall be collected from the date and during the period specified in the notification published under section 80 in pursuance of such resolution as a surcharge on the tickets of all passengers travelling by railway from any one of the railway stations in or near the municipality and named in

such notification to any other railway station more than a specified distance therefrom.

(4) The rates at which the tax shall be levied on each class of tickets shall be determined by the municipal council but shall not exceed the rates in the following table :—

(1)	Tax: For limited periods. (2)			Tax: Throughout the year (3)		
	RS.	A.	P.	RS.	A.	P.
For first-class tickets.	0	8	0	0	4	0
For second-class tickets.	0	4	0	0	2	0
For intermediate class tickets.	0	3	0	0	1	6
For third-class tickets.	0	2	0	0	1	0

Provided that the rates leviable on season tickets, if any, shall be determined by the municipal council in consultation with the railway administrations concerned but shall not for a period of one month or any less period exceed six times the rates given in column (2) of the above table.

(5) The Local Government may make rules not inconsistent with this Act for regulating—

(i) the collection of the tax,

(ii) the payment thereof to the council concerned,

(iii) the deduction of any expenses incurred by railway administrations in the collection thereof, and

(iv) the decision of disputes—

(*a*) between municipal councils and between municipal councils and other local authorities, and

(*b*) with the previous sanction of the Governor-General in Council, between municipal councils and railway administrations, in matters connected with the levy, collection or apportionment of the tax."

89. To section 117 of the said Act, the following sentence shall be added, namely :— *Amendment of section 117, Madras Act V of 1920.*

"But nothing in this section shall be deemed to authorize the exemption of any person solely on the ground that he is a member of a municipal council."

90. For section 118 of the said Act, the following section shall be substituted, namely :— *Substitution of new section for section 118, Madras Act V of 1920.*

"118. The municipal council may write off any tax, toll, fee or other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connexion therewith, if in its opinion such tax, toll, fee, amount or sum is irrecoverable." *Power to write off irrecoverable taxes, tolls, etc.*

91. In section 120 of the said Act, for the words 'in the month of February' the words 'before the end of December' and for the words 'the end of February' the words 'such date as may be fixed by *Amendment of section 120, Madras Act V of 1920.*

them in that behalf' and for the words 'alter any part of it' the words 'modify any part of the budget' shall be substituted.

Insertion of new section 124-A in Madras Act V of 1920.

92. After section 124 of the said Act, the following section shall be inserted, namely :—

Recovery of loans and advances made by the Local Government.

"124-A. Notwithstanding anything contained in the Local Authorities Loans Act, 1914, the Local Government shall be entitled to recover in the manner provided by sub-section (4) of section 39 of this Act or by suit any loan or advance made to any municipal council for any purpose to which the funds of the said council may be applied under this Act."

Amendment of section 139, Madras Act V of 1920.

93. In clause (*a*) of the proviso to section 139 of the said Act, for the words, figures and letter 'section 84, clause (*c*)', the words and figures 'sub-section (5) of section 83' shall be substituted.

Repeal of sections 154 and 155, Madras Act V of 1920.

94. Sections 154 and 155 of the said Act shall be omitted.

Substitution of new section for section 156, Madras Act V of 1920.

95. For section 156 of the said Act, the following section shall be substituted, namely :—

Contributions from persons having control over places of pilgrimage, etc.

"156. Where a mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a municipality or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience whether permanent or temporary shall be made by the municipal council, and the council may require the trustee or other person having control over such place to make such recurring or non-recurring contribution as the Local Government may determine to the funds of the municipal council."

Amendment of section 158, Madras Act V of 1920.

96. (1) Sub-section (1) of section 158 of the said Act shall be omitted and sub-section (2) of the same section shall be re-numbered as section 158.

(2) The proviso to the section as re-numbered shall be omitted.

Amendment of section 162, Madras Act V of 1920.

97. Section 162 of the said Act shall be re-numbered as sub-section (1) of section 162, and to that section as re-numbered, the following sub-section shall be added, namely :—

"(2) The council may entrust to any other local authority with the consent of such authority the maintenance of any public street or portion thereof, the cost of maintenance being provided by the council."

Amendment of section 170, Madras Act V of 1920.

98. In sub-section (2) of section 170 of the said Act—

(i) after the words 'shall not' the word 'ordinarily' shall be inserted; and

(ii) the proviso shall be omitted.

Insertion of new section 174-A in Madras Act V of 1920.

99. After section 174 of the said Act, the following section shall be inserted, namely :—

"174-A. (1) No person shall use — Licensing of motor vehicles plying for hire and motor lorries.

(*a*) any motor vehicle for carrying passengers for hire or

(*b*) any motor lorry

on any public street in any municipality, except on a licence obtained from the chairman.

(2) The municipal council may, with the previous approval of the Local Government, make regulations determining the rates of fares for passengers and of freight for goods carried in such vehicles and specifying the other conditions on which such licences may be granted.

(3) Every licence granted under sub-section (1) shall expire at the end of the year in which it is granted.

(4) (*a*) Any person aggrieved by an order of the chairman under sub-section (1) may appeal against such order to the municipal council.

(*b*) The period of limitation for such appeal shall be—

(i) where the appeal is against an order refusing a licence,	fifteen days from the date of communication of the order to the applicant; and
(ii) where the appeal is against an order granting a licence,	thirty days from the date of publication of the order on the notice board of the municipal council.

(5) Where a motor vehicle has been licensed under sub-section (2) of section 166 of the Madras Local Boards Act, 1920, to be used for hire partly outside municipal limits and partly within such limits, no fee shall be charged for a licence granted under sub-section (1) in respect of such vehicle, and the conditions specified in such licence shall relate only to the regulation of the use of the public streets in the municipality by such vehicle."

100. For sub-sections (2) and (3) of section 183 of the said Act, the following sub-sections shall be substituted, namely:— Amendment of section 183, Madras Act V of 1920.

(2) "The chairman may grant a licence, subject to such conditions and restrictions as he may think fit, for the temporary erection of pandals and other structures in a public street vested in the council or in any other public place the control of which is vested in the council.

(3) The council shall have power to lease roadsides and street margins vested in it for occupation on such terms and conditions and for such period as the council may fix.

(4) But neither a licence under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.

(5) The Local Government may, by notification, restrict and place under such control as they may think fit, the exercise by municipal councils in general or by any municipal council in particular, of the powers under sub-sections (1) and (3).

(6) On the expiry of any period for which a licence has been granted under this section, the chairman may, without notice, cause any projection or construction put up under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable in the manner provided in section 344 from the person to whom the licence was granted."

Amendment of section 197, Madras Act V of 1920.

101. To sub-section (1) of section 197 of the said Act, the following Explanation shall be added, namely :—

" *Explanation.*—' Building ' in this sub-section shall include a wall or fence of whatever height bounding or abutting on any public street. "

Amendment of section 225, Madras Act V of 1920.

102. In section 225 of the said Act, for the words ' Sanitary Commissioner ' the words ' Director of Public Health ' shall be substituted.

Amendment of section 235, Madras Act V of 1920.

103. In section 235 of the said Act, for the word ' order ' occurring at the end, the word ' notice ' shall be substituted.

Repeal of section 248, Madras Act V of 1920.

104. Section 248 of the said Act shall be omitted.

Amendment of section 249, Madras Act V of 1920.

105. For the proviso to sub-section (1) of section 249 of the said Act, the following proviso shall be substituted, namely :—

" Provided that no such notification shall take effect

(*a*) until sixty days from the date of publication and

(*b*) except with the previous sanction of the Local Government in any area outside the municipal limits. "

Amendment of section 250, Madras Act V of 1920.

106. In section 250 of the said Act—

(i) for sub-section (2), the following sub-section shall be substituted, namely :—

" (2) The application shall be accompanied by—

(*i*) a plan of the factory, workshop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by the Local Government ; and

(*ii*) such particulars as to the power, machinery, plant or premises as the municipal council may require by by-laws made in this behalf. "

(ii) for sub-section (4), the following sub-section shall be substituted, namely :—

" (4) Before granting permission under sub-section (3), the municipal council

(*a*) shall obtain the approval of the inspector of factories appointed under the Indian Factories Act, 1911, having jurisdiction in the area of the municipality, or if there is more than one such inspector, of the inspector designated by the Local Government in this behalf by general or special order, as regards the plan of the factory, workshop, work-place or premises with reference to—

(*i*) the adequacy of the provision for ventilation and light,

(*ii*) the sufficiency of the height and dimensions of the rooms and doors,

(*iii*) the suitability of the exits to be used in case of fire, and

(*iv*) such other matters as may be prescribed by rules made by the Local Government ; and

(*b*) shall consult and have due regard to the opinion of the municipal health officer where the municipal council employs such an

officer and of the district medical officer in other cases, as regards the suitability of the site of the factory, workshop, work-place or premises for the purposes specified in the application " and

(iii) in sub-section (5), for the word and figures ' section 197 ' the words and figures 'sections 197 and 199 or sections 208 and 209, as the case may be ' shall be substituted.

107. In section 252 of the said Act— Amendment of section 252, Madras Act V of 1920.

(i) after the words ' action taken ' the words ' or omitted to be taken ' shall be inserted ; and

(ii) the words ' by the municipal council ' shall be omitted.

108. (1) In sub-section (1) of section 255 of the said Act, for the words ' in the municipality ' the words ' within municipal limits or at a distance within three miles of such limits ' shall be substituted ; and the words ' or of any place within three miles of the municipal limits which is used as a slaughter-house for the slaughtering of animals intended for food to be consumed within the municipality ' shall be omitted. Amendment of section 255, Madras Act V of 1920.

(2) To the same sub-section, the following proviso shall be added, namely :—

" Provided that this sub-section shall not take effect in any area outside the municipal limits except with the previous sanction of the Local Government. "

109. In section 259 of the said Act, before the word ' constructed ' the word ' acquired, ' shall be inserted. Amendment of section 259, Madras Act V of 1920.

110. For sub-section (2) of section 260 of the said Act, the following sub-section shall be substituted, namely :— Amendment of section 260, Madras Act V of 1920.

" (2) The council may in any public market levy any one or more of the following fees at such rates and may place the collection of such fees under the management of such persons, as may appear to it proper or may farm out such fees on such terms and subject to such conditions as it may deem fit :—

(*a*) fees for the use of, or for the right to expose goods for sale in, such markets ;

(*b*) fees for the use of shops, stalls, pens or stands in such markets ;

(*c*) fees on vehicles or pack-animals carrying, or on persons bringing, goods for sale in such markets ;

(*d*) fees on animals brought for sale into, or sold in, such markets ; and

(*e*) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such markets. "

111. In sub-section (1) of section 261 of the said Act, for the words ' rents and fees ' the word ' fees ' shall be substituted. Amendment of section 261, Madras Act V of 1920.

112. For section 262 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 262, Madras Act V of 1920.

Licence for private market.

"262. (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the council a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) The council shall, as regards private markets already lawfully established and may, at its discretion, as regards new private markets, grant the licence applied for, subject to such regulations as to supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used, and rents and fees to be charged in such market as the council may think proper; or the council may refuse to grant any such licence for any new private market. The council may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The council may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the council shall cause a notice of such grant, refusal, suspension, cancellation or modification in English and a vernacular language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under this section shall expire at the end of the year."

Insertion of new section 262-A in Madras Act V of 1920.

113. After section 262 of the said Act, the following section shall be inserted, namely :—

Fee for licence.

"262-A. When a licence granted under section 262 permits the levy of any fees of the nature specified in sub-section (2) of section 260, a fee not exceeding fifteen per centum of the gross income of the owner from the market in the preceding year shall be charged by the municipal council for such licence."

Amendment of section 267, Madras Act V of 1920.

114. In section 267 of the said Act, the words 'any private market' in the second place where they occur, shall be omitted and after the word 'suspended' at the end, the words 'or which is held or kept open contrary to the provisions of this Act' shall be added.

Insertion of new section 267-A in Madras Act V of 1920.

115. After section 267 of the said Act, the following section shall be inserted, namely :—

Acquisition of rights of private persons to hold private markets.

"267-A. (1) A municipal council may acquire the rights of any person to hold a private market in any place and to levy fees therein. The acquisition shall be made under the Land Acquisition Act, 1894, and such rights shall be deemed to be land for the purposes of that Act.

(2) On payment by the municipal council of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees therein shall vest in the municipal council."

116. After the proviso to sub-section (1) of section 269 of the said Act, the following further proviso shall be added, namely :— Amendment of section 269, Madras Act V of 1920.

"Provided further that no licence shall be required for any place included in a public market as defined in section 167 of the Madras Local Boards Act, 1920."

117. In section 270 of the said Act, before the word 'articles' the words 'animals or' shall be inserted. Amendment of section 270 of Madras Act V of 1920.

118. After section 270 of the said Act, the following heading and sections shall be inserted, namely :— Insertion of new sections 270-A, 270-B 270-C, 270-D, and 270-E in Madras Act V of 1920.

"270-A. If any question arises whether any place where persons assemble for the sale or purchase of articles of food or clothing, of livestock or poultry, of cotton, groundnut or other industrial crops or of any other raw or manufactured products is a market or not the municipal council shall make a reference to the Local Government and the decision of the Local Government on the question shall be final. Decision of disputes as to whether places are markets.

Cart-stands.

270-B. (1) The municipal council may construct or provide public landing places, halting places and cart-stands and may levy fees for the use of the same. Provision of public cart-stands, etc.

(2) A statement in English and a vernacular language of the district of the fees fixed by the council for the use of such place shall be put up in a conspicuous part thereof.

Explanation.—A cart-stand shall, for the purposes of this Act, include a stand for carriages and animals.

270-C. Where a municipal council has provided a public landing place, halting place or cart-stand, the chairman may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the municipal council, of any public place or the sides of any public street. Prohibition of use of public place or sides of public street as cart-stand, etc.

270-D. If the fee leviable under sub-section (1) of section 270-B is not paid on demand, it shall be recoverable in the manner laid down in section 112 as if it were an unpaid toll. Recovery of cart-stand fees, etc.

270-E. (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the council a licence to do so. Licence for private cart-stand.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a cart-stand or before the commencement of the year for which the licence is sought, as the case may be.

(3) The council shall, as regards private cart-stands already lawfully established and may, at its discretion, as regards new private cart-stands, grant the licence applied for subject to such regulations as to supervision and inspection and to such conditions as to conservancy as the council may think proper ; or the council may refuse to grant any such licence for any new private cart-stand. The council may, however,

at any time for breach of the conditions thereof suspend or cancel any licence which has been granted under this section. The council may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the council shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a vernacular language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) The council may levy for every licence granted under this section a fee not exceeding three hundred rupees per annum.

(6) Every licence granted under this section shall expire at the end of the year."

Amendment of section 286, Madras Act V of 1920.

119. In sub-section (2) of section 286 of the said Act, for the word 'Such' at the commencement, the words 'Information of births and deaths shall be given and their' shall be substituted.

Amendment of section 289, Madras Act V of 1920.

120. In section 289 of the said Act, after the word 'chairman' the words 'or health officer' shall be inserted.

Amendment of section 290, Madras Act V of 1920.

121. In section 290 of the said Act—

(i) in sub-sections (1) and (2), after the word 'chairman' wherever it occurs, the words 'or health officer' shall be inserted; and

(ii) in sub-section (2), for the words 'such building or article' the words 'such premises or article' shall be substituted.

Amendment of section 300, Madras Act V of 1920.

122. In sub-section (1) of section 300 of the said Act, for the words 'to the extent prescribed by rules made by the Governor in Council' the words 'in respect of such persons and to such extent as may be prescribed' shall be substituted.

Amendment of section 303, Madras Act V of 1920.

123. In sub-section (2) of section 303 of the said Act—

(i) for clauses (*b*) and (*c*) the following clause shall be substituted, namely :—

(*b*) with reference to all matters not expressly provided for in this Act, relating to elections of chairmen, vice-chairmen or councillors, including deposits to be made by candidates standing for election as councillors and the conditions under which such deposits may be forfeited :

Provided that the deposit required shall not exceed one hundred rupees ; and

Provided further that no deposit shall be required from any Adi-Dravida candidate" ;

(ii) in clause (*e*), for the words 'establishment and maintenance' the word 'working' shall be substituted ;

(iii) in clause (*h*), the words 'or the Sanitary Board' shall be omitted ;

(iv) for clause (*n*), the following clause shall be substituted, namely :—

"(*n*) for regulating the sharing between local authorities in the Presidency of Madras of the proceeds of the profession tax, surcharge on income-tax, tax on carriages and animals, tax on carts, tolls and other taxes or income, levied or obtained under this or any other Act";

(v) clause (*o*) shall be omitted; and

(vi) after clause (*p*), the following clauses shall be added, namely:—

"(*q*) as to the transfer of allotments entered in the sanctioned budget of a municipal council from one head to another;

(*r*) as to the powers of auditors, inspecting and superintending officers and officers authorized to hold inquiries, to summon and examine witnesses, and to compel the production of documents and all other matters connected with audit, inspection and superintendence; and

(*s*) for determining the cost of buildings and lands."

Amendment of sections 304 and 305, Madras Act V of 1920.

124. (1) Sections 304 and 305 of the said Act shall be re-numbered as 305 and 304 respectively.

(2) In section 304 as re-numbered, for the words and figures 'sections 303 and 304' the word and figures 'section 303' shall be substituted.

(3) (*a*) In sub-section (1) of section 305 as re-numbered, for the words and figures 'Schedule II, Schedule V, Schedule VI or Part II of Schedule IV' the words and figures 'any of the Schedules to this Act except Schedules I, VII and VIII' shall be substituted.

Insertion of new section 305-A in Madras Act V of 1920.

(*b*) After the same section, the following section shall be inserted, namely:—

Procedure for the making of rules under sub-section (2) of section 77 and section 305.

"305-A. A draft of the rules proposed to be made under sub-section (2) of section 77-A or under section 305 shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council approves the draft either without modification or addition or with modifications or additions; but upon such approval being given, the rules may be made in the form in which they have been approved and such rules on being so made shall be notified in the *Fort St. George Gazette* and shall thereafter be of full force and effect."

Amendment of section 306, Madras Act V of 1920.

125. In section 306 of the said Act—

(i) clause (1) shall be re-numbered as clause (1-A) and the following shall be inserted as clause (1), namely:—

"(1) for all matters expressly required or allowed by this Act to be provided for by by-law";

(ii) after clause (2), the following clause shall be inserted, namely:—

"(2-A) for determining the conditions under which lands shall be deemed to be appurtenant to buildings";

(iii) after sub-clause (*b*) of clause (18), the following sub-clause shall be added, namely:—

"(*c*) for licensing and controlling brokers, commission agents, weighmen and measurers practising their calling in markets;"; and

(iv) after clause (23) the following clause shall be inserted, namely :—

"(23-A) for the training and licensing of dhais and midwives."

Substitution of new sections for sections 309 and 310, Madras Act V of 1920.

126. For sections 309 and 310 of the said Act, the following sections shall be substituted, namely :—

Conditions precedent to making by-laws.

"309. The municipal council shall, before making or altering by-laws, publish a draft of the proposed by-laws and alterations together with a notice specifying a date at or after which such draft will be taken into consideration and shall, before making the by-laws or alterations, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Confirmation of by-laws by Local Government.

310. (1) No by-law or cancellation or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Local Government.

(2) Any by-law or cancellation or alteration of a by-law when it shall have been duly confirmed shall be published in the district gazette in English and shall come into operation three months after it has been so published."

Amendment of section 311, Madras Act V of 1920.

127. In clause (*b*) of section 311 of the said Act, for the words, figures and letters 'clauses (*b*) and (*c*) of section 303' the words, figures and letter 'clause (*b*) of sub-section (2) of section 303' shall be substituted.

Substitution of new section for section 314, Madras Act V of 1920.

128. For section 314 of the said Act, the following section shall be substituted, namely :—

Penalty for acting as councillor, chairman or vice-chairman when disqualified.

"314. (1) Whoever acts as a member of a municipal council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office shall, on conviction, be punished with fine not exceeding two hundred rupees for every such offence.

(2) Whoever acts as or exercises the functions of the chairman or vice-chairman of a municipal council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

(3) If the chairman or vice-chairman of a municipal council fails to hand over any documents of, or any moneys or other properties vested in, or belonging to, the municipal council which are in or have come into his possession or control, to his successor in office or other prescribed authority, in every case as soon as his term of office as chairman or vice-chairman expires and in the case of the vice-chairman also on demand by the chairman, such chairman or vice-chairman shall, on

conviction, be punished with fine not exceeding one thousand rupees for every such offence."

129. After the proviso to section 315 of the said Act, the following further proviso shall be added, namely :— Amendment of section 315, Madras Act V of 1920.

"Provided further that nothing in this section shall apply to a teacher employed by a municipal council who, with the sanction of the Local Government, enters into a contract with the municipal council with regard to the utilization for the purpose of a school of any land or building owned by him or in which he has a share or interest."

130. In section 321 of the said Act— Amendment of section 321 Madras Act V of 1920.

(i) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Save as otherwise expressly provided in or may be prescribed under this Act, for every such licence or permission, fees may be charged on such units and at such rates as may be fixed by the municipal council";

(ii) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3-A) Every order of a municipal authority granting or refusing a licence or permission shall be published on the notice board of the municipal council";

(iii) in sub-section (5), the words 'and to such appeal as may be provided in case of refusal' shall be omitted; and

(iv) in sub-section (9), after the words 'for registration' the words 'and may in his discretion also recover summarily and pay over to the council such amount, if any, as he may fix as the costs of the prosecution' shall be added.

131. Clauses (*f*) and (*g*) of sub-section (1) of section 322 of the said Act shall be re-lettered as clauses (*d*) and (*e*) respectively and for clauses (*b*), (*c*), (*d*) and (*e*) the following clauses shall be substituted, namely :— Amendment of section 322, Madras Act V of 1920.

"(*b*) any refusal by the chairman to approve a building site under section 200; or

(*c*) any order of the chairman granting or refusing a licence or permission."

132. In section 323 of the said Act, for the words 'be presented within thirty days after the date of receipt of the order or proceeding against which the appeal is made', the words and letters 'be presented— Amendment of section 323 Madras Act V of 1920.

(*a*) where the appeal is against an order granting a licence or permission, within thirty days after the date of the publication of the order on the notice board of the municipal council; and

(*b*) in other cases, within thirty days after the date of the receipt of the order or proceeding against which the appeal is made' shall be substituted.

133. In section 328 of the said Act, for the words 'Every notification under this Act' the words 'Save as otherwise provided, every notification under this Act other than one issued by the Local Government' shall be substituted. Amendment of section 328, Madras Act V of 1920.

134. In sub-section (3) of section 331 of the said Act, for the words 'or form' the words 'form or other document' shall be substituted. Amendment of section 331, Madras Act V of 1920.

Amendment of section 340, Madras Act V of 1920.

135. In sub-section (1) of section 340 of the said Act, for the words and figures 'sections 139 and 155', the word and figures 'section 139' shall be substituted.

Amendment of section 344, Madras Act V of 1920.

136. In section 344 of the said Act—

(i) after the word 'damages' the word 'penalties' shall be inserted; and

(ii) for the words 'drainage or scavenging', the words 'or drainage', for the words 'special provision for their recovery contained in this Act' the words 'special provision in this Act for their recovery' and for the words "in those rules" at the end, the word 'therein' shall be substituted.

Amendment of section 347, Madras Act V of 1920.

137. In section 347 of the said Act—

(i) the words 'Save as provided in section 59' shall be omitted; and

(ii) after the words 'Code of Criminal Procedure' the figures '1898' shall be inserted.

Amendment of section 348, Madras Act V of 1920.

138. For sub-section (2) of section 348 of the said Act, the following sub-section shall be substituted, namely:—

"(2) Any fine, costs, tax or other sum imposed or assessed by a magistrate under this Act or under any rule or by-law made under it shall be recoverable by such magistrate under the Code of Criminal Procedure, 1898, as if it were a fine and the same shall on recovery be paid to the municipal council to be applied to the purposes of this Act."

Amendment of section 351, Madras Act V of 1920.

139. Clause (*c*) of section 351 of the said Act shall be omitted and clauses (*d*) to (*i*) re-lettered as (*c*) to (*h*) respectively.

Insertion of new section 351-A in Madras Act V of 1920.

140. After section 351 of the said Act, the following section shall be inserted, namely:—

Power of election authority to defend himself if sued.

"351-A. The election authority may defend himself if sued or joined as a party in any proceeding relating to the preparation or publication of electoral rolls or to the conduct of elections, as the case may be, and the expenses incurred by the election authority in so doing shall be payable from the municipal fund."

Amendment of section 352, Madras Act V of 1920.

141. In section 352 of the said Act—

(i) after the words 'maintainable against' the words 'the Local Government, the district collector, the revenue divisional officer or' shall be inserted; and

(ii) the words 'or any other law' shall be omitted.

Amendment of section 353, Madras Act V of 1920.

142. In sub-section (1) of section 353 of the said Act, for the words 'Secretary of State for India' the words 'Secretary of State for India in Council' shall be substituted.

Insertion of new section 353-A in Madras Act V of 1920.

143. After section 353 of the said Act, the following section shall be inserted, namely:—

"353-A. When the chairman or any councillor is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the Local Government." Sanction for prosecution of chairman or councillor.

144. In sub-section (1) of section 354 of the said Act before the words 'for defect in form' the word 'merely' shall be inserted. Amendment of section 354 Madras Act V of 1920.

145. In section 363 of the said Act, for the words and figures 'except those mentioned in Chapters II and III' the words and figures 'except the powers mentioned in Chapters II and III, the power to determine the amount of contribution under section 156, the power to make rules under sub-section (2) of section 77-A and sections 303 and 305 and the power to sanction prosecution under section 353-A' shall be substituted. Amendment of section 363, Madras Act V of 1920.

146. For section 368 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 368, Madras Act V of 1920.

"368. (1) Notwithstanding anything contained in this Act, when a municipality is constituted for the first time, the Local Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the municipal council and its chairman. Special provision in the case of newly constituted and reconstituted municipal councils.

(2) The special officer shall cause arrangements for election to be made so that the newly elected councillors may come into office on a day within six months from the date of publication of the notification under sub-section (3) of section 4 declaring the area to be a municipality.

(3) The special officer shall exercise the powers, discharge the duties and perform the functions of the municipal council until the council has been constituted, and of the chairman until a chairman has been elected by the council.

(4) As soon as may be after the constitution of the council, a meeting of the council shall be held on a day and at a time fixed by the special officer for the election of its chairman. If at such meeting no chairman is elected, a fresh election shall be held on such day and at such time as may be fixed by the special officer.

(5) The term of office of the councillors or of the councillors elected in their places at casual vacancies shall expire at the end of three years if the day referred to in sub-section (2) is the first day of November and in other cases at the end of three years from the first day of November immediately preceding such day.

(6) The provisions of sub-sections (1) to (5) shall apply, save as otherwise provided in this Act and so far as may be, to all cases of reconstitution of municipal councils.

(7) Where the number of seats on a municipal council is increased by or in consequence of a notification under sub-section (1) of section 7, the councillors elected for the additional seats or the councillors elected in their places at casual vacancies shall hold office until the

date on which the councillors elected to the original seats at the ordinary elections immediately preceding will vacate office."

Insertion of new section 369 in Madras Act V of 1920.

147. After section 368 of the said Act, the following section shall be added, namely :—

Adjudication of disputes between local authorities.

"369. (1) When a dispute exists between a council and one or more than one, other local authority in regard to any matters arising under the provisions of this or any other Act and the Local Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, the Local Government may take cognizance of the dispute, and

(a) decide it themselves, or

(b) refer it for inquiry and report to an arbitrator or a board of arbitrators, or to a joint committee constituted under section 26 for the purpose.

(2) The report referred to in clause (b) of sub-section (1) shall be submitted to the Local Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of the Local Government under clause (a) of sub-section (1) or under sub-section (2) as the case may be, shall be final and binding on each of the disputing local authorities."

Amendment of Schedule III, Madras Act V of 1920.

148. In Schedule III to the said Act—

(i) to rule 1, the following proviso and Explanation shall be added, namely :—

"Provided that no meeting shall be held on a public holiday.

Explanation.—The expression 'public holiday' includes Sundays and any other day declared by the Local Government by notification in the *Fort St. George Gazette*, to be a public holiday ;"

(ii) for rules 2 and 3, the following rules shall be substituted, namely :—

"2. (1) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least three clear days before the day of the meeting.

(2) In cases of urgency, the chairman may convene a meeting on giving shorter notice than that specified in sub-rule (1).

3. (1) The chairman shall, on the requisition in writing of not less than one-third of the members then on the council, convene a meeting of the council, provided that the requisition specifies the day (not being a public holiday as defined in the Explanation to rule 1) when and the purpose for which the meeting is to be held. The requisition shall be delivered at the municipal office during office hours to the chairman, secretary, manager or any other person who may then be in charge of the office at least ten clear days before the day of the meeting.

(2) If the chairman fails within forty-eight hours from the delivery of such requisition to call a meeting on the day specified therein or within three days thereafter, the meeting may be called by the members who signed the requisition on giving the notice provided for in sub-rule (1) of rule 2 to the other members of the council";

(iii) in rule 5, after the words 'shall have', the words 'and exercise' shall be inserted;

(iv) in rule 8, the words 'the votes of' shall be omitted;

(v) in rule 9, for the words 'chairman or the member who presided at such meeting', the words 'presiding member' shall be substituted; and

(vi) rule 13 shall be omitted.

149. For rules 2 to 4 of Schedule IV to the said Act (hereinafter referred to as the said Schedule IV), and the heading occurring before the said rules, the following heading and rules shall be substituted, namely :— Substitution of new rules for rules 2 to 4 of Schedule IV, Madras Act V of 1920.

"*Provisions common to taxes in general.*

2. (1) The chairman shall prepare and keep assessment books in such form as may be prescribed showing the persons and property liable to taxation under this Act.

(2) The assessment books and where detailed particulars relating to any assessment are kept in separate records, the portion thereof containing such particulars shall be open at all reasonable times and without charge to inspection by any person who pays any tax to the municipality or his authorized agent and such person or agent shall be entitled to take extracts free of charge, from the said books and records.

(3). The account books of the council shall be open without charge to inspection by any person who pays any tax to the municipality or his authorized agent on a day or days in each month to be fixed by the council.

3. The chairman shall, save as otherwise provided in this Act, determine the tax to which each property or person is liable:

Provided that in the case of taxes payable by the chairman the original assessment shall be made by the revenue divisional officer or if the revenue divisional officer is also the chairman, by the council.

4. (1) If at any time it appears to the council that any person or property has been inadequately assessed or inadvertently or improperly omitted from the assessment books relating to any tax, or that there is any clerical or arithmetical error in the said books, it may direct the chairman to amend the said books in such manner as it deems just or necessary:

Provided that no such direction shall be given where it involves an increase in the assessment, unless the person concerned shall have been afforded a reasonable opportunity to show cause to the council why the assessment books should not be amended as proposed.

(2) Such amendment shall be deemed to have taken effect on the earliest date, either in the current half-year or in the two half-years immediately preceding it, on which the circumstances justifying the amendment existed."

150. For rules 6 to 12 of the said Schedule IV, the following rules shall be substituted, namely :— Substitution of new rules for rules 6 to 12 of Schedule IV, Madras Act V of 1920.

"6. The value of any land or building for purposes of the property tax shall be determined by the chairman:

Provided that the value of any land or building the tax for which is payable by the chairman shall be determined by the revenue divisional

officer or, if the revenue divisional officer is also the chairman, by the council.

7. The chairman shall enter the annual or capital value of all lands and buildings determined by him and the tax payable thereon in assessment books to be kept for the purpose at the municipal office. Such books shall record the following particulars, in so far as they can be ascertained, with regard to each assessable item :—

(*a*) the name of the owner;

(*b*) the name of the occupier;

(*c*) the designation, if any, of the item;

(*d*) the name of the ward and street, if any, in which it is situated, and any survey or other number which it bears;

(*e*) the annual or capital value, as the case may be; and

(*f*) the amount of the tax payable.

8. (1) The assessment books shall be completely revised by the chairman once in every five years.

(2) The chairman may amend the assessment books at any time between one general revision and another by inserting therein or removing therefrom any property or by altering the valuation of any property or the amount of tax. Such amendment shall be deemed to have taken effect on the first day of the half-year in which it is made:

Provided that when the amendment is made in any half-year after the demand notice for that half-year has been issued, it shall have effect only from the succeeding half-year.

9. When assessment books have been prepared for the first time and whenever a general revision of such books has been completed, the chairman shall give public notice stating that revision petitions will be considered if they reach the municipal office within a period of sixty days from the date of such notice in the case of the Government, a railway administration or a company and of thirty days from the said date in other cases. The notice shall be affixed to the notice-board of the municipal office and on the same day be published in the municipality by beat of drum.

10. In every case in which, between one general revision and another, the chairman assesses any property for the first time or increases the assessment on any property otherwise than in consequence of a general enhancement of the rate at which the property tax is leviable, the chairman shall intimate by a special notice to the owner or occupier of such property that a petition for revising the assessment will be considered if it reaches the municipal office within sixty days from the date of service of such notice in the case of the Government, a railway administration or a company and within thirty days from the said date in other cases.

11. Any person may, at any time, not being less than thirty days before the end of a half-year, move the chairman by revision petition to reduce the tax to which he is liable for the forthcoming half-year on the ground that the annual or capital value of the property in respect of which the tax is imposed has decreased since the assessment of the property was last made or revised.

12. No petition under rule 9, 10, or 11 shall be disposed of unless the petitioner has been given a reasonable opportunity to appear either in person or by authorized agent and to represent his case."

151. In rule 13 of the said Schedule IV, after the words 'within fifteen days' in the first place where they occur, the words 'after the date of receipt of such intimation' shall be inserted. Amendment of rule 13 of Schedule IV, Madras Act V of 1920.

152. For rules 14 to 19 of the said Schedule IV and the headings relating to rules 16 to 19 of the said rules, the following shall be substituted, namely :— Substitution of new rules for rules 14 to 19 of Schedule IV, Madras Act V of 1920.

" 14. (1) On the establishment of a municipality assessments shall have effect from the date specified in the notification under section 80.

(2) A general revision shall be deemed to have taken effect on the first day of the half-year following that in which the notice under rule 9 is published.

(3) Any corrections in the assessment books made by the chairman under rule 13 or 27 shall be deemed to have effect on the first day of the half-year to which the assessment which was sought to be revised or which was appealed against relates.

Explanation.—The levy of a new class of property tax or an enhancement in the rate at which any class of property tax is leviable is no amendment or revision within the meaning of this rule, and shall have effect from the date fixed for the levy or enhancement.

15. The first payment of tax shall, save as provided in rule 13, be made within thirty days of the date or day specified in rule 14.

Assessment of the profession tax.

16. (1) The classes into which companies and persons shall, for the purposes of assessment to the profession tax, be divided, and the maximum half-yearly tax leviable on each class shall be as follows :—

Class.		Half-yearly income.			Maximum half-yearly tax.	
		RS.		RS.	RS.	A.
I	More than	21,000	..	..	275	0
II	"	18,000	but not more than	21,000	225	0
III	"	12,000	"	18,000	150	0
IV	"	9,000	"	12,000	85	0
V	"	6,000	"	9,000	55	0
VI	"	4,200	"	6,000	28	0
VII	"	3,000	"	4,200	20	0
VIII	"	1,800	"	3,000	10	0
IX	"	1,200	"	1,800	6	0
X	"	600	"	1,200	3	0
XI	"	300	"	600	1	8
XII	"	150	"	300	0	8

(2) The council shall determine the tax leviable on each class subject to the maximum specified in sub-rule (1) :

Provided that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(3) The council may exempt any one or more of the classes in sub-rule (1) from liability to profession tax, but no class shall be exempted from liability when any lower class is liable to tax.

17. A company or person shall be deemed to have transacted business and a person shall be deemed to have exercised a profession, art, or calling, or held an appointment within a municipality if such company or person has an office or place of employment within such municipality.

18. (1) Where a company or person transacts business in any half-year exclusively in the area of a single municipality, the income of such company or person from the transaction of such business shall, for the purpose of levying profession tax under this Act during the half-year, be deemed to be—

(*a*) where income-tax is assessed on such company or person under the Indian Income-tax Act, 1922, for the year comprising the half-year, one-half of the amount at which the profits and gains of such business are computed under section 10 of the Indian Income-tax Act, 1922, for the purpose of assessing the income-tax ; and

(*b*) where the amount of the said profits and gains is not ascertainable or where such company or person is not assessed to income-tax, such percentage as the Local Government may, subject to the approval of the Legislative Council, prescribe, of the turnover of the business transacted in the area of the municipality during the half-year or where this is also unascertainable, during the corresponding half-year of the previous year.

(2) Where a company or person transacts business partly in the area of a municipality and partly outside such area, the income of such company or person from the transaction of business in the area of the municipality shall, for the purpose of levying profession-tax under this Act, be deemed to be the percentage prescribed under clause (*b*) of sub-rule (1) of the turnover of the business transacted in such area during the half-year or the corresponding half-year of the previous year, as the case may be.

(3) For the purposes of clause (*b*) of sub-rule (1) and sub-rule (2), the turnover of business in any municipality means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such municipality.

Explanation.—In determining the turnover of business under this sub-rule—

(*a*) where the delivery of any goods on account of any purchase made by any company or person and the delivery on account of the sale thereof by the same company or person are both effected in the Presidency of Madras, only the latter transaction shall be taken into account ;

(*b*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place outside the said Presidency and the delivery on account of the sale thereof by the same company or person is effected in any place in the said Presidency, the latter transaction shall be taken into account ; and

(*c*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the said Presidency and the delivery on account of the sale thereof by the same company or person is effected in any place outside the said Presidency, the former transaction shall be taken into account.

19. (1) If, in the opinion of the chairman, profession tax is due from any company or person for any half-year, he shall serve a notice

on such company or person either in that half-year or in the succeeding half-year requiring the company or person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form showing the income on the basis of which, according to such company or person, it or he is liable to be assessed to profession tax for the half-year in question. Thereupon it shall be open to such company or person to submit a return showing the income derived by it or him during the half-year for which profession tax is claimed or for the corresponding half-year of the previous year and produce any evidence on which the company or person may rely in support of the return made.

(2) If a return is made as required under sub-rule (1) and the chairman is satisfied that it is correct and complete, he shall levy the profession tax from such company or person on the basis of such return.

Explanation.—In cases not falling under clause (*b*) of sub-rule (1) or under sub-rule (2) of rule 18, if the company or person produces the notice of demand of income-tax served on it or him under section 29 of the Indian Income-tax Act, 1922, for the year comprising the half-year in question, the chairman shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which profession tax is leviable under this Act, as the income on the said sources for the purposes of levying profession tax.

(3) If no return is made as required under sub-rule (1) or if the chairman is satisfied that any return so made is incorrect or incomplete, the chairman shall assign to the company or person the class in the scale appropriate to the half-yearly income of such company or person as estimated by him.

(4) The chairman may, when classifying any company or person under sub-rule (3), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid to Government.

(5) The chairman shall not be entitled to call for the accounts of any company or person. "

153. In rule 20 of the said Schedule IV— Amendment of rule 20 of Schedule IV. Madras Act V of 1920.

(i) for the heading ' Half-yearly instalment' of the second column of the items under sub-rule (1), the heading ' Maximum half-yearly tax ' shall be substituted ;

(ii) for sub-rule (2), the following sub-rule shall be substituted, namely :—

"(2) If, within the half-year, a person replaces any carriage or animal by another carriage or animal falling under the same class in the table given in sub-rule (1), the said person, in case the replacement was due to the destruction of the carriage or the death of the animal and if he had possession, custody or control of the carriage or animal so replaced at the time of its destruction or death, shall not be liable to more than one payment of tax in the same municipality and the amount of such payment shall be regulated by the aggregate number of days for which he has kept such carriages and animals during the half-year " ; and

(iii) sub-rule (3) shall be omitted.

Amendment of rule 21 of Schedule IV, Madras Act V of 1920.

154. In the table of tolls in sub-rule (1) of rule 21 of the said Schedule IV—

(i) the word ' Tolls ' at the head shall be omitted ;

(ii) before the words ' motor vehicle ' in the first item, the words ' steam or ' shall be inserted ; and

(iii) after the second item, the following item shall be inserted, namely :—

	RS.	A.
" On every steam or motor lorry ..	2	0"

Repeal of rule 22 of Schedule IV, Madras Act V of 1920.

155. Rule 22 of the said Schedule IV and the headings thereof shall be omitted.

Substitution of new rule for rule 23 of Schedule IV, Madras Act V of 1920.

156. For rule 23 of the said Schedule IV, the following rule shall be substituted, namely :—

"23. An appeal shall lie to the council in respect of the assessment and imposition of the following taxes and of no others :—

(*a*) assessments made by the revenue divisional officer under rule 3 ;

(*b*) the proceedings of the chairman under rule 19 ;

(*c*) the order of the chairman under rule 13 upon a revision petition ; and

(*d*) the imposition by the chairman of any tax on any carriage, animal or cart, or of the tax on servants. "

Amendment of rule 26 of Schedule IV, Madras Act V of 1920.

157. In rule 26 of the said Schedule IV—

(i) in sub-clause (i) of clause (*a*), the words ' or sending ' and the words ' or table ' shall be omitted ; and

(ii) in clause (*b*), before the words ' on or before the day upon which the appeal is presented ', the words ' within the period specified in sub-clause (i), (ii) or (iii) of clause (*a*), as the case may be, or where an appeal is presented for admission under the proviso to the said clause ' shall be inserted.

Amendment of rule 27 of Schedule IV, Madras Act V of 1920.

158. In rule 27 of the said Schedule IV—

(i) for the word and figure ' rule 3,' the words and figures ' sub-rule (1) of rule 2,' and for the word ' decreased ' the word ' reduced ' shall be substituted ; and

(ii) after the words ' passed by the council ' the words and figures ' under rule 24 or ' shall be inserted.

Amendment of rule 28 of Schedule IV, Madras Act V of 1920.

159. (1) In rule 28 of the said Schedule IV, for the words ' the adjudication of an appeal by the council ', the words ' when such an appeal is made, the adjudication of the council thereon ' shall be substituted.

(2) To the same rule, the following proviso shall be added, namely :—

" Provided that where any assessment or demand is not in accordance with the assessment books, nothing in this rule shall be deemed to prohibit a fresh assessment or demand of the tax being made in accordance therewith. "

160. After rule 28 of the said Schedule IV, the following rule shall be inserted, namely :— Insertion of new rule 28-A in Schedule IV, Madras Act V of 1920.

"28-A. (1) The powers of the council under rules 4, 23 and 24, shall, during any period in respect of which the Local Government may, by notification, so direct, be exercised by a special officer appointed by them. And thereupon the council shall cease to exercise the said powers during the said period and rules 4 and 23 to 28 shall have effect as if for the word 'council' wherever it occurs in those rules and for the word 'chairman' in clause (*b*) of rule 26, the words 'special officer appointed by the Local Government in this behalf' were substituted.

(2) A special officer appointed under sub-rule (1) shall have all such powers of the council and of the chairman as are necessary for the purpose of exercising his powers under the said sub rule and he shall be entitled to the same protection as the council or chairman, as the case may be, is entitled.

(3) The special officer shall be paid out of the municipal fund such salary and allowances as the Local Government may, in consultation with the council, fix. If a Government servant is appointed special officer, the council shall also pay the Local Government such contribution towards the pension and leave allowances of such servant as may be payable under the regulations in force for the time being of the branch of Government service to which he belongs."

161. In rule 29 of the said Schedule IV— Amendment of rule 29 of Schedule IV, Madras Act V of 1920.

(i) for sub-rule (1), the following sub-rule shall be substituted, namely :—

"(1) Where any tax not being a tax in respect of which a notice has to be served under section 95, 102 or 108 or in respect of which a direction has to be given under rule 13 is due from any person, the chairman shall serve upon such person a bill for the sum due before he proceeds to enforce the provisions of rule 30";

(ii) in sub-rule (2), for the words 'Such bill', the words and figures 'A notice under section 95, 102 or 108 and a bill under sub-rule (1)' shall be substituted ; and

(iii) after sub-rule (2), the following sub-rule shall be inserted, namely :—

"(3) Where a notice, bill or direction referred to in sub-rule (1) has not been served or given either in the half-year in which the tax became due or in the succeeding half-year, the tax for the half-year first mentioned in this sub-rule shall not be demanded :

Provided that where the assessment books have been amended under rule 4, the notice, bill or direction as the case may be, may be given either in the half-year in which the amendment was made or in the succeeding half-year."

162. In rule 30 of the said Schedule IV— Amendment of rule 30 of Schedule IV, Madras Act V of 1920.

(i) in sub-rule (1), the words 'or sending' and the word 'table' shall be omitted ;

(ii) in sub-rule (3), for the word 'amount,' the word 'tax' shall be substituted ; and

(iii) in sub-rule (4), for the words 'shall be leviable', the words 'shall be levied' shall be substituted.

Amendment of rule 31 of Schedule IV, Madras Act V of 1920.

163. In rule 31 of the said Schedule IV—

(i) in sub-rule ( )—

(*a*) for the words 'but, if not', the words 'but if the tax or fee is not paid' shall be substituted; and

(*b*) to clause (*c*), the following proviso shall be added, namely:—

"Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized"; and

(ii) in sub-rule (2), for the words 'proportionate in value to the sum', the words 'equal in value to the tax' shall be substituted.

Amendment of rule 32 of Schedule IV, Madras Act V of 1920.

164. In sub-rule (3) of rule 32 of the said Schedule IV, for the words 'which to his knowledge was not liable', the words 'when to his knowledge it was not liable' shall be substituted.

Amendment of rule 34 of Schedule IV, Madras Act V of 1920.

165. In rule 34 of the said Schedule IV, for the word and figures 'rule 30', the words and figures 'sub-rule (1) of rule 30' shall be substituted.

Amendment of rule 35 of Schedule IV, Madras Act V of 1920.

166. In rule 35 of the said Schedule IV—

(i) for the words and figures 'remains unpaid at the end of the period mentioned in rule 30', the words and figures 'remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 30' shall be substituted;

(ii) after the words 'within a specified period', the words 'not being less than fifteen days' shall be inserted;

(iii) for the words 'this requisition,' the words 'such requisition' shall be substituted; and

(iv) for the words 'found on the premises', the words 'found on the building or land' shall be substituted.

Insertion of new rule 35-A in Schedule IV, Madras Act V of 1920.

167. After rule 35 of the said Schedule IV, the following rule shall be inserted, namely:—

"35-A. If any tax due from any person remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 30 and if such person has left British India or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connexion therewith shall be recoverable as if it were an arrear of land revenue."

Amendment of rule 36 of Schedule IV, Madras Act V of 1920.

168. (1) Rule 36 of the said Schedule IV shall be re-numbered as sub-rule (1) of rule 36 and in the rule as re-numbered—

(i) for the words and figures 'under rule 30', the words and figures 'under sub-rule (2) of rule 30' shall be substituted;

(ii) in clause (*b*), the words 'and he shall and pay the said amount and the costs of the prosecution' shall be omitted; and

(iii) clause (*c*) shall be omitted.

(2) To the rule as re-numbered, the following sub-rule shall be added, namely:—

"(2) Whenever any person is convicted of an offence under sub-rule (1), the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council the

amounts, if any, due under the heads specified in clauses (*a*) and (*b*) of sub-rule (1); and may in his discretion also recover summarily and pay to the council such amount, if any, as he may fix as the costs of the prosecution."

169. After rule 36 of the said Schedule IV, the following rule shall be inserted, namely:— Insertion of new rule 36-A in Schedule IV, Madras Act V of 1920.

"36-A. Neither the chairman nor any municipal officer or servant shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules."

170. In rule 39 of the said Schedule IV— Amendment of rule 39 of Schedule IV, Madras Act V of 1920.

(i) in clause (*c*), before the words 'of latrines', the words 'of shops, stalls and plinths' shall be inserted; and

(ii) in clause (*e*), the words 'and the acquisition of land for any of the aforesaid purposes' shall be added at the end.

171. In clause (*e*) of rule 40 of the said Schedule IV, for the words 'other industrial concerns' the words 'other agricultural, industrial or trading concerns', shall be substituted. Amendment of rule 40 of Schedule IV, Madras Act V of 1920.

172. In sub-rule (1) of rule 55 of the said Schedule IV, for the first two sentences beginning with the words 'All orders or cheques' and ending with the words 'under the council', the following sentence shall be substituted, namely:— Amendment of rule 55 of Schedule IV, Madras Act V of 1920.

"All orders or cheques against the municipal fund shall be signed by the chairman or by some person duly authorized in this behalf by him."

173. For Appendices A, B and C to the said Schedule IV, the following Appendices shall be substituted, namely:— Substitution of new Appendices for Appendices A, B and C of Schedule IV, Madras Act V of 1920.

"APPENDIX A.

DISTRAINT WARRANT.

[*See* rule 30 (4).]

Warrant No.

To

(Name of officer charged with execution of warrant.)

(State tax or taxes due and premises, if any, in respect of which the tax or taxes are due.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rs. A. P. due for the tax or taxes noted above for the ending 19 , although the said sum has been duly demanded from the said and fifteen* days have elapsed since such demand was made: This is to command you to demand the said sum of Rs. A. P. together with annas two for warrant fee, failing payment of which you are to distrain the goods and chattels of the said (or, as the case may be, any goods and chattels found on the premises referred to), to the amount of the said sum of Rs. A. P. together with Rs. A. P. for warrant fee and distraint fee making together a sum of Rs. A. P. and such further sum as may be sufficient to defray the charges of keeping and selling such distraint; and if within seven days next after such distraint, the amount due on account of the said tax or taxes and fee shall not be paid, together with such further sum as may be sufficient to defray the charges of keeping such distraint, to sell the said goods and chattels under orders to be hereafter issued by me, and to remit to the municipal office the sale-proceeds of the distrained property, out of which the amount

* Three days in case of tax on servants.

due on account of the said taxes and fees, *viz.*, Rs. A. P. and the charges of keeping and selling such distraint will be deducted and credited to the municipal fund, and the surplus, if any, returned to the owner of the goods and chattels distrained. If distraint or sufficient distraint cannot be found of the goods and chattels of the said , you are to certify the same to me together with this warrant.

STATION.
Date 19 . (Signature of the chairman.)

APPENDIX B.

FORM OF INVENTORY AND NOTICE.

[*See* rule 31 (1) (*c*).]

(State particulars of goods and chattels seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rs. A. P. due for the tax, or taxes mentioned in the margin for the ending 19 ; and that unless you pay into the office of the municipality of the amount due together with the warrant fee, the distraint fee and the cost of keeping the goods and chattels, within seven days from the date of this notice, the goods and chattels will be sold on the day of 19 , at the municipal office or at such other place as the chairman may direct; and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

STATION.
Date 19 . (Signature of the officer executing the warrant of distress.)

APPENDIX C.

TABLE OF FEES PAYABLE ON DISTRAINTS.

[*See* rule 33 (1).]

Sum distrained for	Fees. RS.	A.	P.
Under 1 rupee	0	4	0
1 rupee and over but under 5 rupees	0	8	0
5 rupees „ „ 10 „	1	0	0
10 „ „ 15 „	1	8	0
15 „ „ 20 „	2	0	0
20 „ „ 25 „	2	8	0
25 „ „ 30	3	0	0
30 „ „ 35 „	3	8	0
35 „ „ 40 „	4	0	0
40 „ „ 45 „	4	8	0
45 „ „ 50 „	5	0	0
50 „ „ 60 „	6	0	0
60 „ „ 80 „	7	8	0
80 „ „ 100 „	9	0	0
100 rupees and over	10	0	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each peon."

Amendment of Schedule V, Madras Act V of 1920.

174. In Schedule V to the said Act—

(i) in clause (*g*), for the word 'making' occurring before the word 'bricks', the word 'burning' shall be substituted;

(ii) for clause (*q*) the following clauses shall be substituted, namely:—

"(*q*) storing any explosive or combustible material;

(*r*) manufacturing anything from which offensive or unwholesome smells arise;

(*s*) using for any industrial purpose any fuel or machinery; and

(i) in general, doing in the course of any industrial process anything which is likely to be dangerous to human life or health or property"; and

(iii) in the proviso, before the words 'for private use,' the words 'when such storage or boiling is' shall be inserted.

175. In Schedule VII to the said Act— Amendment of Schedule VII, Madras Act V of 1920.

(i) before the item relating to section 88, the following item shall be inserted, namely :—

"30	(1)	Interested councillor voting or taking part in discussion.	Fifty rupees."

(ii) in the item relating to section 89, the figure '(1)' shall be entered in the second column;

(iii) in the item relating to section 102, the figure '(2)' shall be entered in the second column;

(iv) after the item relating to section 105, sub-section (3), the following item shall be inserted, namely :—

"109	..	Failure to furnish lists of servants employed.	Fifty rupees."

(v) for the figures '119' in the first column of the item occurring next after the item relating to section 113, the figures '127' shall be substituted;

(vi) in the item relating to section 143, the figure '(2)' in the second column shall be omitted;

(vii) for the items relating to section 158, the following item shall be substituted, namely :—

"158	..	Allowing rubbish or filth to accumulate on premises for more than twenty-four hours, etc.	Twenty rupees."

(viii) after the item relating to section 167, the following item shall be inserted, namely :—

"168	(1)	Failure to obey orders to set back buildings.	Five hundred rupees."

(ix) after the item relating to section 173, the following items shall be inserted, namely :—

"174-A	(1)	Using a motor vehicle for hire or a motor lorry without licence or contrary to licence.	Two hundred rupees.
175	..	Failure to provide roads, etc., on building-sites prior to disposal.	Do."

(x) for the figures '183' in the first column of the item occurring next after the item relating to section 178, the figures '180' shall be substituted;

(xi) after the item relating to section 190, sub-section (3), the following items shall be inserted, namely :—

"193	(5)	Constructing or reconstructing building contrary to declaration issued by council.	Two hundred rupees.
194	(1)	Failure to obey requisition to round or splay off buildings at corners of streets.	One hundred rupees."

(xii) in the items relating to sections 228, 230 and 231, for the entries in the fourth column, the words 'Fifty rupees', 'Twenty rupees' and 'Fifty rupees' shall respectively be substituted ;

(xiii) after the item relating to section 247, the following item shall be inserted, namely :—

"249 .. (1)	Using a place for any of the purposes specified in Schedule V without licence or contrary to licence.	One hundred rupees."

(xiv) in the third column of the item relating to section 261, the words 'of food' shall be omitted.

(xv) (*a*) in the third column of the item relating to section 270, for the words 'Sale of article in public streets' the words 'Sale or exposure for sale of animal or article in public street' shall be substituted ; and

(*b*) after the same item, the following items shall be inserted, namely :—

"270-C	Using a public place or the sides of a public street as a public landing place, etc.	Two hundred rupees.
270-E	Opening or keeping open a new private cart-stand without licence or contrary to licence.	Two hundred rupees."

(xvi) in the third column of the item relating to section 275, for the word and figures 'section 269' the word and figures 'section 274' shall be substituted ;

(xvii) after the item relating to section 275, the following item shall be inserted, namely :—

"279 .. (1)	Opening, etc., without licence a new place for the disposal of the dead.	One hundred rupees."

(xviii) for the figures '300' in the first column of the item occurring next after the item relating to section 299, the figures '301' shall be substituted ; and

(xix) after the item relating to section 321, sub-section (8), the following item shall be inserted, namely :—

"325	Failure to obey summons.	Fifty rupees."

Amendment of Schedule VIII, Madras Act V of 1920.

176. In Schedule VIII to the said Act—

(i) for the figures '168' occurring in the first column of the item next after the item relating to section 148, the figures '167' shall be substituted ;

(ii) before the item relating to section 182, the following item shall be inserted, namely :—

"174-A .. (1)	Using a motor vehicle for hire or a motor lorry without licence or contrary to licence.	Fifty rupees."

(iii) after the item relating to section 187, the following item shall be inserted, namely :—

"194 .. (1)	Failure to obey requisition to round or splay off buildings at corners of streets.	Fifty rupees."

(iv) in column (4) of the item relating to section 195, for the word ' Do. ' the words " Ten rupees " shall be substituted ;

(v) after the item relating to section 247, the following item shall be inserted, namely :—

"249	..	Using a place for any of the purposes specified in Schedule V without licence or contrary to licence.	Twenty rupees."

(vi) after the item relating to section 269, the following items shall be inserted, namely :—

" 270-C	..	Using a public place or the sides of a public street as a public landing place, etc.	Twenty rupees.
270-E	..	Opening or keeping open a new private cart-stand without licence or contrary to licence.	Twenty rupees.
2979	..	Using without licence a place for the disposal of the dead.	One hundred rupees."

(vii) in column (4) of the item relating to section 290, for the word ' Do. ' the words ' Ten rupees ' shall be substituted ; and

(viii) after the item relating to section 290, the following item shall be inserted, namely :—

" 298	..	Failure to close place of public entertainment.	One hundred rupees."

TRANSITIONAL PROVISIONS.

177. Notwithstanding anything contained in the said Act or in this Act—

(*a*) (i) the term of office of the members of every municipal council holding office on the date of the commencement of this Act shall, subject to the provisions of sub-section (2) of section 48 and sections 50, 51 and 60 of the said Act as amended by this Act, extend to, or expire on, as the case may be, such date as the Local Government may fix, and the Local Government shall cause elections to be held so that the newly elected members may come into office on the date fixed for the retirement of the old members ;

(ii) the Local Government may from time to time postpone any date fixed by them under sub-clause (i) and fix another date in lieu thereof ; and

(iii) any date fixed under sub-clause (i) or (ii) shall not be later than one year from the date of the commencement of this Act ;

(*b*) the chairman and vice-chairman of the municipal council shall, subject to the provisions of sub-sections (4) and (5) of section 12, section 40, and section 40-A of the said Act as amended by this Act, hold office up to, or vacate office on, the date fixed under clause (*a*) ;

(*c*) a meeting of the municipal council shall be held on or as soon as may be after the said date on a day and at a time fixed by the Local Government or such other authority as may be empowered by them in this behalf for the election of the chairman and vice-chairman;

(*d*) the term of office of the newly elected councillors or of the councillors elected in their places at casual vacancies shall expire at the end of three years if the date fixed under clause (*a*) is the first day of November, and in other cases at the end of three years from the first day of November immediately preceding such date ;

(*e*) any vacancy in the office of chairman or vice-chairman of a municipal council which is in existence on the date of the commencement of this Act or which occurs before the date fixed under clause (*a*) shall be filled by election by the municipal council;

(*f*) any such vacancy in the office of an appointed member of a municipal council shall be filled by appointment by the Local Government and in that of an elected member by election under the provisions of the said Act as amended by sections 40, 41, 43 and 45 of this Act; and

(*g*) any person elected or appointed as chairman, vice-chairman or member of a municipal council under clause (*e*) or (*f*) shall hold office only up to the date fixed under clause (*a*).

Explanation.—The office of chairman, vice-chairman or member of a municipal council to which no person had, at any time prior to the commencement of this Act, been elected or appointed, shall be deemed to be vacant within the meaning of this section.

178. Every municipality in which a water and drainage tax is levied on the date of the commencement of this Act shall, on or before such date as the Local Government may fix in this behalf, declare in accordance with the provisions of the first proviso to sub-section (1) of section 81 of the said Act as amended by this Act what proportion of the tax is levied for water works.

179. If any difficulty arises as to the first constitution or reconstitution of any municipal council after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, or of the said Act as amended by this Act, the Local Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE.

Section. (1)	Sub-section. (2)	For the words (3)	Substitute the words (4)
4	(1)	his intention	their intention
"	(3)	has considered	have considered
"	"	he may	they may
5	(1) Proviso (*a*)	he issues	they issue
"	"	he proposes	they propose
33	(1)	fixes	fix
39	(1)	he may	they may
	(2)	as he may fix	as they may fix
"	(4)	has directed	have directed
41	(3) (*b*)	appoints	appoint
"	"	so directs	so direct
"	"	with himself	with themselves
123	(3)	he shall name	they shall name
252		he may deem fit	they may deem fit
303	(2)	he may make rules	they make rules
363		vested in him	vested in them.
366	(b) (i)	so directs	so direct
Schedule IV	rule 44 (1)	directs	direct
"	" 50 (1)	he may direct	they may direct
"	" 55 (2)	has incurred	have incurred.

THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1930.

ACT NO. XI OF 1930.

[17th June, 1930.]

An Act to amend the Madras Local Boards Act, 1920.

WHEREAS it is expedient further to amend and consolidate the Madras Local Boards Act, 1920, and the Madras Village Panchayat Act, 1920; Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; it is hereby enacted as follows:—

1. This Act may be called THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1930. Short title and commencement.

2. The Madras Village Panchayat Act, 1920, is hereby repealed. Repeal of Madras Act XV of 1920.

3. In section 3 of the Madras Local Boards Act, 1920 (hereinafter referred to as the said Act)— Amendment of section 3, Madras Act XIV of 1920.

(i) clause (1) shall be re-numbered as clause (1-B) and the following clauses shall be inserted as clauses (1) and (1-A) respectively:—

'(1) "Adi-Dravida" means any person professing the Hindu religion and belonging to any of the following communities, namely, the Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans Cherumans and Holeyas, or to any other community that may be prescribed; "Adi-Dravida."

'(1-A) "Anglo-Indian" means any person not being a European, who is "Anglo-Indian."

(i) of European descent in the male line, or

(ii) of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America;'

(ii) after clause (5), the following clause shall be inserted, namely:—

'(5-A) "casual vacancy" means a vacancy occurring otherwise than by efflux of time and "casual election" means an election held on the occurrence of a casual vacancy;' "Casual vacancy." "Casual election."

(iii) for clause (6), the following clause shall be substituted, namely:—

'(6) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British Possession and includes any firm or association carrying on business in the Presidency of Madras, whether incorporated or not, and whether its principal place of business is situated in the said presidency or not;' "Company."

(iv) for clause (7), the following clauses shall be substituted, namely:—

"District." '(7) "district" means any local area which, for the purposes of revenue administration, is under the charge of a district collector, after excluding therefrom all areas included in—

(*a*) municipalities constituted under the Madras District Municipalities Act, 1920.

(*b*) cantonments constituted under the Cantonments Act, 1924, and

(*c*) scheduled districts as defined in the Scheduled Districts Act, 1874;'

"District board." '(7-A) "district board" means the body constituted for the local administration of a district under sub-section (1) of section 6;'

"European." '(7-B) "European" means any person of European descent who either was born in or has a domicile in the United Kingdom or in any British Possession or in any State of India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile;'

"Forest." '(7-C) "forest" includes unreserved land at the disposal of Government and forest reserved under the Madras Forest Act, 1882;'

(v) after clause (8), the following clause shall be inserted, namely:—

"Indian Christian." '(8-A) "Indian Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion;'

(vi) in clause (9), for the words 'in Malabar' the words 'in the district of Malabar' shall be substituted;

(vii) after clause (10), the following clauses shall be inserted, namely:—

"Legislative council." '(10-A) "legislative council" means the legislative council of the Governor of Madras;'

"Local authority." '(10-B) "local authority" includes a cantonment authority;'

(viii) for clause (11), the following clause shall be substituted, namely:—

"Local board." '(11) "local board" means and includes a district board, taluk board or panchayat;'

(ix) for clause (12), the following clause shall be substituted, namely:—

"Local fund." '(12) "local fund" means and includes a district fund, taluk fund or village fund;'

(x) after clause (13), the following clause shall be inserted, namely:—

"Ordinary vacancy." "Ordinary election." '(13-A) "ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary election" means an election held on the occurrence of an ordinary vacancy;'

(xi) after clause (15), the following clauses shall be inserted, namely:—

"Panchayat." '(15-A) "panchayat" means the body constituted for the local administration of a village under sub-section (1) of section 6;

'(15-B) "panchayatdar" means a member of a panchayat;' "Panchayatdar."

(xii) in clause (18), the words 'over which the public have a right of way' occurring after the words 'whether a thoroughfare or not' shall be placed before those words;

(xiii) in clause (19), for the words 'return thereto,' the words 'return to such house' shall be substituted;

(xiv) after clause (19), the following clauses shall be inserted, namely:—

'(19-A) "revenue taluk" means any local area which, for the purposes of revenue administration, is under the charge of a tahsildar or an independent deputy tahsildar after excluding therefrom the areas, if any, referred to in sub-clauses (*a*) to (*c*) of clause (7). "Revenue taluk."

'(19-B) "renvenue village" means any local area which is recognized as a village in the revenue accounts of Government after excluding therefrom the areas, if any, referred to in sub-clauses (*a*) to (*c*) of clause (7).' "Revenue village."

(xv) for clause (21), the following clauses shall be substituted, namely:—

'(21) "Sub-landholder" means a person not being a landholder who— "Sub-landholder."

(*a*) (i) holds any portion of any estate consisting of one or more revenue villages on an undertenure created, continued or recognized by the proprietor of such estate, or

(ii) is entitled to collect the rents of any such village or villages otherwise than as agent or servant of the landholder, and

(*b*) is registered as a sub-landholder in the office of the collector under the rules prescribed.

Explanation.—In this clause, the word 'estate' means any estate falling under clause (*a*), (*b*) or (*c*) of the definition of 'estate' in the Madras Proprietary Estates' Village-Service Act, 1894, and the word 'proprietor' means a proprietor as defined in that Act.' Madras Act II of 1894.

'(21-A) "taluk" means the revenue taluk referred to in sub-section (1) of section 4 of the revenue taluks or the area constituted into a taluk under sub-section (2) or sub-section (3) of that section, as the case may be. "Taluk."

'(21-B) "taluk board" means the body constituted for the local administration of a taluk under sub-section (1) of section 6.' "Taluk board."

(xvi) for clause 23, the following clause shall be substituted, namely:—

'(23) "village" means any local area which is declared to be a village under section 5.' "Village."

4. For sections 4 and 5 with their heading, the following heading and sections shall be substituted, namely:— Substitution of new sections for sections 4 and 5, Madras Act XIV of 1920.

Taluks and Villages.

"4. (1) Save as otherwise provided in sub-sections (2) and (3), every revenue taluk shall be deemed to be a taluk for the purposes of this Act. Taluks.

(2) (*a*) The Local Government may, by notification, declare that two or more neighbouring revenue taluks in the same district shall

constitute a taluk for the purposes of this Act and specify the name of the taluk.

(*b*) The Local Government may, by notification—

(i) exclude from any taluk constituted under clause (*a*) any revenue taluk comprised therein, or

(ii) include in any such taluk any revenue taluk in the vicinity thereof, or

(iii) cancel a notification issued under clause (*a*), or

(iv) alter the name of the taluk as notified under clause (*a*).

(*c*) Before issuing a notification under clause (*a*) or clause (*b*), the Local Government shall give the taluk board or boards which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanations and objections, if any, of such taluk board or boards.

(3) (*a*) Notwithstanding anything contained in sub-sections (1) and (2), the Local Government may, in special circumstances, by notification, declare any part of a district to be a taluk for the purposes of this Act and specify the name of the taluk.

(*b*) The Local Government may, by notification—

(i) exclude from any taluk constituted under clause (*a*) any local area comprised therein, or

(ii) include in any such taluk any local area in the vicinity thereof, or

(iii) cancel a notification issued under clause (*a*), or

(iv) alter the name of the taluk as notified under clause (*a*).

(*c*) Before issuing a notification under clause (*a*) or clause (*b*) the procedure laid down in clause (*c*) of sub-section (2) shall be followed and the consent of the district board and taluk board, if any, concerned, to the issue of such notification shall also be obtained.

(4) Every notification issued under clause (*a*) or sub-clause (ii) of clause (*b*) of sub-section (2) or under clause (*a*) or sub-clause (ii) of clause (*b*) of sub-section (3) shall contain a statement of the reasons therefor and shall be laid on the table of the Legislative Council.

Villages. (5) (1) The Local Government may, by notification published in the prescribed manner, declare any part of a revenue taluk to be a village for the purposes of this Act and specify the name of the village.

(2) The Local Government may, by notification published in the prescribed manner—

(*a*) exclude from a village any local area comprised therein, or

(*b*) include in a village any local area in the vicinity thereof and in the same revenue taluk, or

(*c*) cancel a notification issued under sub-section (1), or

(*d*) alter the name of the village as notified under sub-section (1).

(3) Before issuing a notification under sub-section (2), the Local Government shall give the panchayat or panchayats which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanations and objections, if any, of such panchayat or panchayats."

5. In section 6 of the said Act— Amendment of section 6, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'for each union, a union board' the words 'for each village, a panchayat' shall be substituted;

(ii) for the proviso to sub-section (2) the following provisos shall be substituted namely:—

"Provided that where there is no taluk board in any part of a district, the district board shall exercise the powers, discharge the duties, perform the functions and be credited with the receipts and debited with the charges of the taluk board, and the president of the district board shall exercise the powers, discharge the duties and perform the functions of the president of the taluk board, in such part of the district:

Provided further that where there is no panchayat in any part of a taluk, the taluk board shall exercise the powers, discharge the duties, perform the functions and be credited with the receipts and debited with the charges of the panchayat, and the president of the taluk board shall exercise the powers, discharge the duties and perform the functions of the president of the panchayat, in such part of the taluk";

(iii) in sub-section (3)—

(*a*) for the words 'by the name of the local area for which it shall have been established be a body corporate', the words 'be a body corporate by the name of the district or revenue taluk or the name of the taluk or village which is specified in the notification under section 4 or 5 as the case may be' shall be substituted; and

(*b*) between the words 'imposed by' and the words 'this or any other enactment' the words 'or under' shall be inserted.

6. In section 7 of the said Act, for the entry relating to 'Union boards' the following entry shall be substituted, namely:— Amendment of section 7, Madras Act XIV of 1920.

"Panchayats 16 8"

7. For sections 8 and 9 of the said Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 8 and 9, Madras Act XIV of 1920.

"8. All the members of every local board shall be elected in the manner laid down in this Act. All members of local boards to be elected.

9. (1) In any district board, the Local Government may, in their discretion, by notification, from time to time, reserve seats for— Reservation of seats on local boards for certain communities and for women.

(*a*) Muslims,

(*b*) Indian Christians,

(*c*) Adi-Dravidas,

(*d*) Europeans,

(*e*) Anglo-Indians, or

(*f*) Women

and determine the number of such seats.

(2) In any taluk board, the Local Government may, in their discretion, by notification, from time to time, reserve seats for—

(*a*) Muslims,

(*b*) Indian Christians,

(*c*) Adi-Dravidas, or

(*d*) Women

and determine the number of such seats.

(3) In any panchayat, the Local Government may, in their discretion, by notification published in the prescribed manner, from time to time, reserve seats for Adi-Dravidas and determine the number of such seats.

(4) The total number of seats reserved in any local board under sub-section (1), (2) or (3) shall not exceed one-fourth of the strength fixed for the local board under section 10.

(5) No seat shall be reserved in any district board for any of the communities mentioned in clauses (*a*) to (*e*) of sub-section (1), or in any taluk board for any of the communities mentioned in clauses (*a*) to (*c*) of sub-section (2), if at the last census, such community constituted more than one-half of the total population of the district or taluk, as the case may be.

(6) In reserving seats in any local board for any community, the Local Government shall have due regard to its number and importance.

(7) Nothing contained in sub-sections (1) to (3) shall be deemed to prevent members of any community or women for whom seats have been reserved in any local board, from standing for election to the non-reserved seats in the local board."

Substitution of new section for section 10, Madras Act XIV of 1920.

8. For section 10 of the said Act, the following section shall be substituted, namely :—

Determination of number of members of local boards.

" 10. (1) The Local Government shall, by notification, declare the total number of members of every local board.

(2) Subject to the approval of the Local Government, any local board may, by resolution supported by not less than three-fourths of the members present at a meeting specially convened in that behalf, alter the total number of its members as notified under sub-section (1).

(3) The notification referred to in sub-section (1) and the resolution referred to in sub-section (2) shall be published in the prescribed manner."

Substitution of new section for section 11, Madras Act XIV of 1920.

9. For section 11 of the said Act, the following sections shall be substituted, namely :—

Election and term of office of members of local boards.

" 11. (1) Save as otherwise expressly provided in this Act, the term of office of the members of a local board shall be three years beginning and expiring at noon on the first day of November.

(2) Ordinary vacancies in the office of a member of a local board shall be filled at ordinary elections which shall be fixed by the prescribed authority to take place on such day or days in the months of August and September next preceding the vacancies, as he thinks fit ;

Provided that the Local Government may, for sufficient cause, direct or permit the holding of any ordinary election after the end of September.

(3) A member of a local board elected at an ordinary election held after the occurrence of a vacancy, shall enter upon office forthwith but shall hold office only so long as he would have been entitled to hold office, if he had been elected before the occurrence of the vacancy.

(4) A casual vacancy in the office of a member of a local board shall be filled at a casual election which shall be fixed by the prescribed authority to take place as soon as may be after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within three months before the ordinary date of retirement and that such vacancy shall be filled at the next ordinary election.

(5) A member of a local board elected at a casual vacancy shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected, would have been entitled to hold office if the vacancy had not occurred.

Procedure where no member is elected at an election.

11-A. If at an ordinary or casual election to a local board held under section 11 no member is elected, a fresh election shall be held on such day as the prescribed authority may fix.

(2) If, at such fresh election, no member is elected, the local board may, in the manner prescribed, elect a qualified person to fill the vacancy.

(3) The term of office of a member of a local board elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be."

Substitution of new sections for section 12, Madras Act XIV of 1920.

10. For section 12 of the said Act, the following sections shall be substituted, namely :—

Presidents and vice-presidents of local boards.

"12. Every local board shall elect one of its members to be its president, and another member to be its vice-president.

Procedure when no president or vice-president is elected at an election.

12-A. If at an election held under section 12, no president or vice-president is elected, a fresh election shall be held."

Repeal of sections 13 and 14, Madras Act XIV of 1920.

11. Sections 13 and 14 of the said Act shall be omitted.

Amendment of section 15, Madras Act XIV of 1920.

12. (1) Sub-section (2) of section 15 of the said Act shall be re-numbered as sub-section (3) and for sub-section (1) of that section, the following sub-sections shall be substituted, namely :—

"15. (1) A president of a local board shall be deemed to have vacated his office—

(*a*) on the expiry of his term of office as a member of the local board or on his otherwise ceasing to be such member, or,

(*b*) on his election as president or vice-president of any other local board in the district.

(2) A vice-president of a local board shall be deemed to have vacated his office—

(*a*) on the expiry of his term of office as a member of the board, or on his otherwise ceasing to be such member; or

(*b*) on his election as president of the board or as president or vice-president of any other local board in the district."

(2) In the same section, in sub-section (3) as re-numbered, the words 'or re-appointment' shall be omitted.

Amendment of section 16, Madras Act XIV of 1920.

13. To section 16 of the said Act, the following sentence shall be added, namely :—

"Such resignation shall take effect in the case of a member or vice-president from the date on which it is received by the president and in the case of a president from the date on which it is placed before a meeting of the local board."

Amendment of section 17, Madras Act XIV of 1920.

14. In section 17 of the said Act, the words 'or appointed' in both the places where they occur shall be omitted and for the words 'in the same manner as his predecessor was elected' the words 'in the manner laid down in this Act' shall be substituted.

Repeal of section 18, Madras Act XIV of 1920.

15. Section 18 of the said Act shall be omitted.

Amendment of section 20, Madras Act XIV of 1920.

16. In section 20 of the said Act, for the words "receive any salary or other remuneration from the funds at the disposal of or under the control of such board", the words "receive or be paid from the funds at the disposal of or under the control of such board any salary or other remuneration for services rendered by him in any capacity whatsoever" shall be substituted.

Amendment of section 21, Madras Act XIV of 1920.

17. In sub-section (2) of section 21 of the said Act, for the words "which by this Act it is expressly declared," the words "which this Act expressly declares" shall be substituted.

Insertion of new section 22-A in Madras Act XIV of 1920.

18. After section 22 of the said Act, the following section shall be inserted, namely :—

Exercise of president's functions during vacancy in office.

"22-A. (1) When the office of president of a local board is vacant, the vice-president shall exercise the functions of the president until a new president assumes office.

(2) (*a*) When the office of president of a district board is vacant and there is either a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the district collector shall convene a meeting for the election of a president and until a new president or vice-president is elected and assumes office or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be, the district collector shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be ex-officio member and president of the district board.

(b) When the office of president of a taluk board or panchayat is vacant and there is either a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, a member of the taluk board appointed by the president of the district board or a member of the panchayat appointed by the president of the taluk board, as the case may be, shall convene a meeting for the election of a president and until a new president or vice-president is elected and assumes office or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be, the member so appointed shall exercise the functions of the president of the taluk board or panchayat.

(3) The meeting for the election of a president referred to in sub-section (2) shall be convened only after giving a notice to the members of not less than fifteen clear days in the case of district and taluk boards and of not less than five clear days in the case of panchayats.

(4) The person appointed to exercise the functions of the president of a taluk board or panchayat under clause (b) of sub-section (2), shall, for the period during which he exercises such functions, be styled 'temporary president' of the taluk board or panchayat, as the case may be.

Explanation.—A new president or vice-president shall be deemed to have assumed office on his being declared elected as such."

19. For sections 23 and 24 of the said Act, the following section shall be substituted, namely:— Substitution of new section for sections 23 and 24, Madras Act XIV of 1920.

"23. (1) The president of a local board may, by an order in writing, delegate any of his functions to the vice president: Delegation and devolution of functions by president.

Provided that he shall not delegate any functions which the board expressly forbids him to delegate.

(2) If the president of a local board has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions except those of promoting, withholding promotion from, reducing, removing or dismissing any officer or servant of the board shall, during such absence or incapacity, devolve on the vice-president:

Provided that where the absence from jurisdiction of the president is within the Presidency of Madras and is on business connected with the board, the president's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (1), devolve on the vice-president.

(3) If the vice-president also has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, or if the office of vice-president is vacant, the president may, by an order in writing, delegate any of his functions to any member of the board who shall be styled president-delegate during the period of delegation:

Provided that

(i) when an order of delegation made under this sub-section is in force, no further order of delegation of any functions shall be made in favour of any other than the member in whose favour the order in force was made;

(ii) no delegation under this sub-section shall be made for any period exceeding in the aggregate ninety days in any year without the special sanction of the board ; and

(iii) every order made under this sub-section shall be communicated to the board at its next meeting and when made by the president of a taluk board or panchayat shall also be communicated forthwith to the president of the district board or of the taluk board, as the case may be.

(4) Subject to any restrictions that the local board may impose, the president of a local board may, by an order in writing, delegate any of his executive functions, to any member, officer or servant of the board or to any officer of Government and in the case of the president of a taluk board or panchayat subject also to the consent of the president of the district board, to any officer or servant of the district board."

Amendment of section 25, Madras Act XIV of 1920.

20. In section 25 of the said Act—

(i) for the word "powers" the word "functions" and for the words and figures "sections 23 and 24", the word and figures "section 23" shall be substituted ; and

(ii) the following sentence shall be added at the end, namely :—

"The president shall also have power to control and revise the exercise or discharge of any functions devolving on the vice-president under sub section (2) of section 23."

Amendment of section 27, Madras Act XIV of 1920.

21. In section 27 of the said Act—

(i) in sub-section (1), the words "record, correspondence, plan or other" shall be omitted ; and

(ii) in clause (*b*) of sub-section (2), for the words "taluk or union board" the words "taluk board or panchayat" shall be substituted.

Substitution of new section for sections 28 and 29, Madras Act XIV of 1920.

22. For sections 28 and 29 of the said Act, the following section shall be substituted, namely :—

Constitution of committees of local boards.

"28. (1) (*a*) A local board may constitute committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them.

(*b*) A local board may also appoint individual members or committees to enquire into and report or advise on any matters which it may refer to them.

(2) Save as otherwise expressly provided in this Act, the president of the local board shall, by virtue of his office, be a member and the chairman of every committee constituted under sub-section (1).

(3) It shall be lawful for a local board by a resolution supported by not less than one-half of its sanctioned strength to elect as members of any committee constituted under sub-section (1), any persons who are not members of the board but who may, in the opinion of the board, possess special qualifications or special interest for serving on such committee. But the number of such persons shall not exceed one-third of the total number of members of such committee.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of members of the local

board shall be applicable, so far as may be, to the members of any committee who are not members of the local board."

23. For section 30 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 30, Madras Act XIV of 1920.

"30. (1) A local board may, and if so required by the Local Government shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible. Appointment of joint committees.

(2) A joint committee may include persons who are not members of the local authorities concerned but who may, in their opinion, possess special qualifications or special interest for serving on such committee :

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint committee.

(3) The constitution of a joint committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections (6) and (7), have effect unless assented to by each of the local authorities concerned.

(4) The regulations shall determine—

(*a*) the total number of members of the joint committee ;

(*b*) the number who shall be members of the local authorities concerned and the number who may be outsiders ;

(*c*) the persons who shall be members of the joint committee or the manner in which they shall be elected or appointed ;

(*d*) the person who shall be chairman of the joint committee or the manner in which he shall be elected or appointed ;

(*e*) the term of office of members and chairman ;

(*f*) the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint committee ; and

(*g*) the procedure of the joint committee.

(5) Regulations made under sub-sections (3) and (4) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.

(6) If the Local Government take action under sub-section (1), they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-sections (3) and (4).

(7) If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to the Local Government, whose decision shall be final."

24. In section 31 of the said Act— Amendment of section 31, Madras Act XIV of 1920.

(i) the word "supplementary" before the word "regulations" shall be omitted :

(ii) for clause (*c*), the following clause shall be substituted, namely —

"(c) the preservation of order and the conduct of proceedings at meetings and the powers which the president may exercise for the purpose of enforcing his decisions on points of order;" and

(iii) clauses (f) and (g) shall be re-lettered as (g) and (h) respectively and for clause (e) the following clauses shall be substituted, namely:—

"(e) the constitution and procedure of committees;

(f) the delegation of the powers, duties or functions of the board—

(i) to the president, a member, an officer or servant of the board, or an officer of Government, or

(ii) to a committee constituted under clause (e) or to its chairman or to any one or more of its members."

Amendment of section 32, Madras Act XIV of 1920.

25. In sub-section (3) of section 32 of the said Act, after the words "for that meeting" the words "and during the period that he presides over it" shall be inserted.

Repeal of section 33, Madras Act XIV of 1920.

26. Section 33 of the said Act shall be omitted.

Amendment of section 34, Madras Act XIV of 1920.

27. In section 34 of the said Act—

(i) in sub-section (1)—

(a) after the words "No member of a local board" the words "or of a committee thereof" shall be inserted;

(b) for the words "board or any committee" the words "board or committee" shall be substituted; and

(c) after the words "pecuniary interest" at the end, the words "by himself or his partner" shall be added;

(ii) in sub-section (2), after the words "The president" the words "or chairman" shall be inserted and for the words "such person" in both the places where they occur, the words "such member" shall be substituted;

(iii) in sub-section (3)—

(a) for the words "Such person" the words "Such member" shall be substituted; and

(b) after the words "the president" the words "or chairman" shall be inserted;

(iv) in sub-section (4), after the words "the president" in both the places where they occur, the words "or chairman" shall be inserted;

(v) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The member concerned shall not be entitled to vote on the question referred to in sub-section (3), and the president or chairman concerned shall not be entitled to vote on the motion referred to in sub-section (4)"; and

(vi) for the Explanation, the following Explanation shall be substituted, namely:—

"*Explanation.*—In this section, 'president' includes a vice-president or member presiding for the occasion at a meeting of a local board and 'chairman' includes a member presiding for the occasion at a meeting of a committee."

28. For section 35 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 35, Madras Act XIV of 1920.

"35. No act of a local board or of a committee thereof or of any person acting as president, vice-president, chairman or member of such board or committee shall be deemed to be invalid by reason only of a defect in the establishment of such board or committee, or on the ground that the president, vice-president, chairman or any member of such board or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment, or by reason of such act having been done during the period of any vacancy in the office of president, vice-president, chairman or member of such board or committee." Acts of local boards, etc., not to be invalidated by informality, etc.

29. For section 36 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 36, Madras Act XIV of 1920.

"36. (1) Every panchayat shall submit a report on its administration to the taluk board. Submission of annual reports.

(2) Every taluk board shall submit to the district board a consolidated report on the administration of itself and of all the panchayats in the taluk.

(3) Every district board shall submit to the Local Government a consolidated report on the administration of itself and of all the taluk boards and panchayats in the district.

(4) The reports shall relate to the financial year and shall be submitted, as soon as may be, after the first day of April following such year and not later than such date as may be fixed by the Local Government. They shall be in such form and shall contain such details as the Local Government may direct.

(5) The report which each local board has to submit shall be prepared by its president. The local board shall consider the report and submit it to the authority concerned with its resolutions thereon, if any.

(6) The reports and the resolutions thereon, if any, shall be published in such manner as the Local Government may direct."

30. For section 37 of the said Act, the following sections shall be substituted, namely :— Substitution of new sections for section 37, Madras Act XIV of 1920.

"37. (1) The Local Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the local boards established under this Act. Inspecting and superintending officers of local boards.

(2) The Local Government may assign to officers appointed under sub-section (1) such salary and establishment as they may think fit. The cost of such officers and their establishment shall be paid out of the revenues of the Local Government.

Powers of entry of inspecting officers.

37-A. Any officer or person whom the Local Government may empower in this behalf may enter on and inspect or cause to be entered on and inspected—

(a) any immovable property, or any work in progress, under the control of any local board or president;

(b) any school, hospital, dispensary, vaccination station, choultry or other institution maintained by, or under the control of, any local board and any records, registers or other documents kept in such institution; and

(c) the office of any local board and any records, registers or other documents kept therein.

Access of inspecting officers to local board property, etc.

37-B. Local boards and their presidents, officers and servants shall be bound to afford to the officers and persons referred to in sections 37 and 37-A such access, at all reasonable times, to local board property or premises, and to all documents as may, in the opinion of such officers or persons, subject to such rules as may be prescribed, be necessary to enable them to discharge their duties under the said sections.

Power to call for reports from local boards.

37-C. The Local Government, or any officer or person whom the Local Government may empower in this behalf may—

(a) call for any record, register or other document in the possession or under the control of any local board or president;

(b) require any local board or president to furnish any return, plan, estimate, statement, account or statistics;

(c) require any local board or president to furnish any information or report on any matter connected with such board; and

(d) record in writing for the consideration of any local board or president any observations they or he may think proper in regard to its or his proceedings or duties.

Powers of control of Presidents of district and taluk boards over taluk boards and panchayats.

37-D. All the powers which may be conferred on any officer or person by the Local Government under sections 37-A and 37-C together with the right of access to property or premises and documents referred to in section 37-B may be exercised—

(a) by the president of the district board in the case of taluk boards and panchayats and their presidents;

(b) by the president of the taluk board in the case of panchayats and their presidents."

Substitution of new section for section 38, Madras Act XIV of 1920.

31. For section 38 of the said Act, the following section shall be substituted, namely:—

Power to suspend or cancel resolution, etc., under Act.

"38. (1) The Local Government may, by order in writing—

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted or

(ii) prohibit the doing of any act which is about to be done or is being done

in pursuance or under colour of this Act, if, in their opinion,

(*a*) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized or

(*b*) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or

(*c*) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray :

Provided that nothing in this sub-section shall enable the Local Government to set aside any election which has been held.

(2) The Local Government shall, before taking action on any of the grounds referred to in clauses (*a*) and (*b*) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) If, in the opinion of the district collector, immediate action is necessary on any of the grounds referred to in clause (*c*) of sub-section (1), he may suspend the resolution, order, licence, permission or act, as the case may be, and report to the Local Government who may thereupon either rescind the collector's order or, after giving the authority or person concerned a reasonable opportunity of explanation, direct that it continue in force with or without modification permanently or for such period as they think fit."

Amendment of section 39, Madras Act XIV of 1920.

32. In sub-section (1) of section 39 of the said Act, for the words 'or the president' occurring after the words 'a local board', the words 'or president' shall be substituted.

Repeal of section 40, Madras Act XIV of 1920.

33. Section 40 of the said Act shall be omitted.

Amendment of section 41, Madras Act XIV of 1920.

34. In section 41 of the said Act, for the words 'district board' and 'district fund' wherever they occur, the words 'local board' and 'local fund' shall respectively be substituted.

Substitution of new section for section 42, Madras Act XIV of 1920.

35. For section 42 of the said Act, the following section shall be substituted, namely :—

Power of presidents of district and taluk boards to take action in default of taluk boards and panchayats and their presidents.

"42. The power conferred on the Local Government and the district collector under section 41 may be exercised in accordance with the provisions of that section—

(*a*) by the president of the district board in respect of taluk boards or their presidents ; and

(*b*) by the president of the taluk board in respect of panchayats or their presidents :

Provided that where there is difference of opinion between the Local Government and the president of the district or taluk board, the opinion of the Local Government shall prevail."

Substitution of new sections for sections 43 and 44, Madras Act XIV of 1920.

36. For sections 43 and 44 of the said Act, the following sections shall be substituted, namely :—

Power of Local Government to remove president or vice-president of local board.

"43. (1) The Local Government may, by notification, remove any president or vice-president of a local board who, in their opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder or abuses the powers vested in him.

(2) The Local Government shall, when they propose to take action under sub-section (1), give the president or vice-president concerned an opportunity for explanation and the notification issued under the said sub-section shall contain a statement of the reasons of the Local Government for the action taken.

Motion of no confidence in president or vice-president of local board.

"44. (1) A motion expressing want of confidence in the president or in the vice-president of a local board may be made by any member of the board, subject to the following restrictions, namely :—

(*a*) Leave of the board to make the motion shall be asked for before the business entered in the agenda for the day is taken up.

(*b*) The member asking for leave shall at the time of asking for leave hand to the person presiding a written notice of the motion which he proposes to make.

(2) The person presiding shall then read the motion to the board and request those members who are in favour of the leave being granted to rise in their places. If less than one-third of the sanctioned strength of the board rise accordingly, the person presiding shall inform the member that he has not the leave of the board. If not less than one-third of the sanctioned strength of the board rise, the person presiding shall intimate that leave is granted and that the motion will be taken on such day and time as he may appoint. The day appointed shall not—

(*a*) in the case of a district or taluk board, be less than ten clear days nor more than fifteen clear days, and

(*b*) in the case of a panchayat, be less than six clear days nor more than fifteen clear days,

from the day on which leave is asked.

(3) No debate on any motion under this section shall be adjourned. Such debate, if not earlier concluded, shall automatically terminate on the expiry of three hours from the time appointed for its commencement. Upon the conclusion of the debate or upon the expiry of the said period of three hours, as the case may be, the motion shall be put to the vote of the board.

(4) (*a*) If the motion is carried with the support of not less than two-thirds of the sanctioned strength of the board, the president or vice-president, as the case may be, shall forthwith be deemed to have vacated his office.

(*b*) If the motion is carried, but not by such a majority as aforesaid, and if after an interval of not less than one month, another motion expressing want of confidence in the same president or vice-president, made under sub-section (1) is carried by the board, he shall forthwith be deemed to have vacated his office."

Amendment of section 45, Madras Act XIV of 1920.

37. In section 45 of the said Act—

(i) for sub-section (1), the following sub-sections shall be subsituted, namely :—

"(1) If, in the opinion of the Local Government, a local board is not competent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers, they

may, by notification published in the prescribed manner, direct that the board be dissolved and immediately reconstituted. The notification shall specifiy the time within which the board shall be reconstituted :

Provided that, for the purpose of completing the elections to a local board which has been dissolved, the Local Government may in their discretion, from time to time, extend the time fixed by them under this sub-section for its reconstitution.

(1-A) Before publishing a notification under sub-section (1), the Local Government shall communicate to the local board concerned and to the district board in the case of a taluk board and to the district and taluk boards in the case of a panchayat, the grounds on which they propose to do so, fix a reasonable period for the board or boards to show cause against the proposal and consider the explanations and objections, if any, of such board or boards" ;

(ii) in sub-section (2), for the words " all members of the local board " the words " all the members of the local board including its president and vice-president " for the word 'vacate' the words 'be deemed to have vacated' and for the words 'fresh appointment shall be made and elections held ' the words 'fresh elections shall be held ' shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely :—

" (2-A) The term of office of the elected members of the reconstituted local board or of the members elected in their places at casual vacancies, shall expire at the end of three years, if it is reconstituted on the first day of November in any year and in other cases at the end of three years from the first day of November immediately preceding the date of its reconstitution "; and

(iv) in sub-section (3), for the word ' performed ' the word ' discharged ' and for the words ' by such persons ' the words 'by such person or persons' shall be substituted.

38. After section 45 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 45-A and 45-B in Madras Act XIV of 1920.

" 45-A. (1) For all or any of the reasons specified in sub-section (1) of section 45, the Local Government may, by notification published in the prescribed manner, instead of dissolving a panchayat and reconstituting it, supersede it for a specified period not exceeding one year :

Provided that the Local Government shall not supersede a portion only of the panchayat.

(2) Before publishing a notification under sub-section (1), the Local Government shall follow the procedure laid down in sub-section (1-A) of section 45.

(3) The supersession of a panchayat shall, if no other date and time are fixed in the said notification, take effect from noon on the date of publication thereof and thereupon all the members of the panchayat, including its president and vice-president, shall forthwith be deemed to have vacated their offices.

(4) On or before the expiry of the period of supersession notified under sub-section (1), the Local Government may, by notification published in the prescribed manner and for reasons to be stated therein, postpone the reconstitution of the panchayat for a further period not exceeding six months or, notwithstanding anything contained in this

Act, exclude the area of the panchayat from the operation of this Act or cancel the notification issued under section 5 declaring such area to be a village.

(5) The provisions of sub-section (3) of section 45 shall apply, so far as may be, in regard to the exercise and discharge, during the period of supersession of a panchayat under sub-section (1) or (4), of all or any of the powers and duties of the panchayat and its president.

(6) The Local Government may reconstitute the panchayat before the expiry of the period notified under sub-section (1) or (4).

(7) The term of office of the elected members of the reconstituted panchayat or of the members elected in their places at casual vacancies, shall expire at the end of three years if it is reconstituted on the first day of November in any year and in other cases at the end of three years from the first day of November immediately preceding the date of its reconstitution.

45-B. When a local board is dissolved under section 45, or a panchayat is superseded under section 45-A, the Local Government, until the date of the reconstitution thereof and the reconstituted board or panchayat thereafter, shall be entitled to all the assets and be subject to all the liabilities of the board or panchayat as on the date of dissolution or supersession and on the date of the reconstitution respectively."

Amendment of section 46, Madras Act XIV of 1920.

39. In section 46 of the said Act—

(i) in sub-section (1)—

(a) for the words 'power to make such contracts' the words 'all such powers' shall be substituted ; and

(b) before the words 'its officers or servants' in both the places where they occur, the word 'or' shall be inserted ; and

(ii) in sub-section (2) for the word 'power', the word 'powers', shall be substituted.

Substitution of new section for section 47, Madras Act XIV of 1920.

40. For section 47 of the said Act, the following section shall be substituted, namely :—

Election of members of district board.

"47. (1) For the purposes of election of members to a district board, the Local Government after consulting the district board shall, by notification—

(a) divide the district into circles ;

(b) determine the circles in which the seats, if any, reserved under sub-section (1) of section 9 shall be set apart ; and

(c) declare for whom such seats are reserved.

(2) The circles referred to in clause (b) of sub-section (1) shall return, in addition to members for such reserved seats, one or more members for non-reserved seats. The number of such members shall be notified by the Local Government. All other circles shall be entitled to elect only one member.

(3) All the electors of a circle, irrespective of their community or sex, shall be entitled to vote at an election to any seat in that circle, whether reserved or not.

(4) When issuing under sub-section (1) a notification which materially alters the existing division of a district into circles, the Local

Government shall direct that the alteration shall take effect from the date of the next ordinary elections.

(5) When the number of members to be returned by a circle is altered or when a new circle is formed or when an existing circle is abolished, the prescribed authority shall, with the approval of the Local Government, determine—

(a) the circle which each member then on the district board shall be deemed to represent; and

(b) the circle or circles in which elections shall be held to fill up the vacancies, if any, in the district board".

41. For section 48 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 48, Madras Act XIV of 1920.

"48. (1) For the purposes of election of members to taluk board, the Local Government after consulting the taluk board shall, by notification— Election of members of taluk board.

(a) divide the taluk into circles ;

(b) determine circles in which the seats, if any, reserved under sub-section (2) of section 9 shall be set apart ; and

(c) declare for whom such seats are reserved.

(2) The circles referred to in clause (b) of sub-section (1) shall return, in addition to members for such reserved seats, one or more members for non-reserved seats. The number of such members shall be notified by the Local Government. All other circles shall be entitled to elect only one member.

(3) All the electors of a circle, irrespective of their community or sex, shall be entitled to vote at an election to any seat in that circle, whether reserved or not.

(4) When issuing under sub-section (1) a notification which materially alters the existing division of a taluk into circles, the local Government shall direct that the alteration shall take effect from the date of the next ordinary elections.

(5) When the number of members to be returned by a circle is altered or when a new circle is formed or when an existing circle is abolished, the prescribed authority shall, with the approval of the Local Government, determine—

(a) the circle which each member then on the taluk board shall be deemed to represent ; and

(b) the circle or circles in which elections shall be held to fill up the vacancies, if any, in the taluk board."

42. For section 49 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 49, Madras Act XIV of 1920.

"49. (1) For the purposes of election of members to a panchayat the Local Government after consulting the panchayat may, by notification published in the prescribed manner— Election of members of panchayat.

(a) divide the village into wards ; and

(*b*) determine the wards in which the seats, if any, reserved for Adi-Dravidas under sub-section (3) of section 9 shall be set apart.

(2) The wards referred to in clause (*b*) of sub-section (1) shall return, in addition to members for such reserved seats, one or more members for non-reserved seats. The number of such members shall be notified in the prescribed manner by the Local Government. All other wards shall be entitled to elect only one member.

(3) All the electors of a ward, irrespective of their community or sex, shall be entitled to vote at an election to any seat in that ward whether reserved or not.

(4) When issuing under sub-section (1) a notification which materially alters the existing division of a village into wards, the Local Government shall direct that the alteration shall take effect from the date of the next ordinary elections.

(5) When the number of members to be returned by a ward is altered or when a new ward is formed or when an existing ward is abolished, the prescribed authority shall, with the approval of the Local Government, determine—

(*a*) the ward which each member then on the panchayat shall be deemed to represent; and

(*b*) the ward or wards in which elections shall be held to fill up the vacancies, if any, in the panchayat."

Repeal of section 50, Madras Act XIV of 1920.

43. Section 50 of the said Act shall be omitted.

Amendment of section 51, Madras Act XIV of 1920.

44. In section 51 of the said Act—

(i) sub-section (2) shall be renumbered as sub-section (5) and for sub-section (1) the following sub-section shall be substituted, namely :—

"(1) An electoral roll for every local board showing the names of persons qualified to vote therein shall be prepared and published by the authority and in the manner prescribed, before the end of June of the year in which the ordinary vacancies are to occur.

(2) The rolls so prepared and published shall be revised and a list of amendments and corrections thereto shall in like manner be prepared and published by the prescribed authority before the end of June of every year" ;

(ii) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) The electoral roll for a district or taluk board shall be divided into separate parts for each circle and when a village has been divided into wards, the electoral roll for the panchayat shall be divided into separate parts for each ward" ;

(iii) in sub-section (4) the following words shall be inserted before the words 'shall remain' :—

'as revised by the list of amendments and corrections, if any,' and

(iv) in sub-section (5) as renumbered, for the words 'final electoral roll published under this section' the words 'electoral roll as so revised' shall be substituted.

45. In section 52 of the said Act— Amendment of section 52, Madras Act XIV of 1920.

(i) in the opening paragraph, after the words 'included in the electoral roll' the words 'of a local board' shall be inserted ;

(ii) in the proviso to clause (*a*) for the words 'any aliens' the words 'any alien' shall be substituted ; and

(iii) for clauses (*c*), (*d*) and (*e*), the following clauses shall be substituted, namely :—

"(*c*) he possesses one or more of the qualifications described in Schedule III ;

(*d*) in the case of a district or taluk board, he has resided for one hundred and twenty days in the aggregate in such preceding year in the district or taluk or in a municipality (including the City of Madras) or cantonment, situated within three miles of the district or taluk :

Provided that in the case of persons whose sole residential qualification consists in their residence in any such municipality or cantonment, their being assessed to a tax payable to a municipal or cantonment authority shall not be deemed to be a qualification within the meaning of this clause ; and

(*e*) in the case of a panchayat, he has resided in the village for one hundred and twenty days in the aggregate in such preceding year."

46. For section 53 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 53, Madras Act XIV of 1920.

"53. Notwithstanding anything contained in sub-section (5) of section 51, a person who is of unsound mind, a deaf-mute or a leper, shall not be entitled to vote at any election to a local board." Disqualifications of voters.

47. For section 54 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 54, Madras Act XIV of 1920.

"54. (1) No person shall be qualified for election to any seat on a local board, unless the name of such person appears on the electoral roll of that board. Qualifications for election.

(2) No officer of Government other than a village headman shall be qualified for election or for holding office as a member of a local board :

Provided that this prohibition shall not apply to the holder of any office which does not involve both of the following incidents, namely, that the incumbent

(*a*) is a whole-time servant of the Government, and

(*b*) is remunerated either by salary or fees :

Provided further that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section, the question shall be referred to the Local Government whose decision shall be final."

Amendment of section 55, Madras Act XIV of 1920.

48. In section 55 of the said Act—

(i) in sub-section (1)—

(*a*) after the words 'six months' the words 'for any offence other than an offence of a political character or an offence not involving moral delinquency' shall be inserted; and

(*b*) the words 'or appointment' shall be omitted; and

(*c*) for the words 'expiration of the sentence' the words 'the expiration of the sentence' shall be substituted; and

(ii) in sub-section (2)—

(*a*) in the opening paragraph, for the words 'election or appointment' in the first place where they occur, the word 'election' and for the words 'nomination, election or appointment' the words 'nomination or election' shall be substituted;

(*b*) clauses (i) to (vi) shall be lettered as clauses (*a*) to (*f*), respectively;

(*c*) in clause (*b*) as so lettered, before the words 'an uncertificated bankrupt' the words 'an applicant to be adjudicated a bankrupt or insolvent or' shall be inserted;

(*d*) in clause (*c*) as so lettered, for the words 'an incorporated company' the words 'a company' shall be substituted;

(*e*) the proviso to the sub-section shall be inserted as a proviso to clause (*c*) as so lettered and in the said proviso, for the words 'such a contract or work as aforesaid' the words 'such contract or work' shall be substituted;

(*f*) after clause (*c*) as so lettered, the following clause shall be inserted, namely:—

"(*cc*) employed as paid legal practitioner on behalf of the local board or as legal practitioner against the local board";

(*g*) in clause (*d*) as so lettered, for the words 'for the local area over which the local board concerned has jurisdiction' the words 'with jurisdiction over any part of the area of the local board' shall be substituted;

(*h*) in clause (*e*) as so lettered, the words 'or appointment' shall be omitted; and after the word 'effect' the words 'or has already been elected a member of the local board whose term of office has not yet commenced' shall be inserted; and

(*i*) for clause (*f*) as so lettered, the following clause shall be substituted, namely:—

"(*f*) the servant or employer or the official subordinate or official superior of a member holding office at the said date."

Amendment of section 55, Madras Act XIV of 1920.

49. In section 56 of the said Act—

(i) in sub-section (1)—

(*a*) in clause (*a*), before the word 'court' the word 'criminal', and before the words 'as is described' the words 'and for such offence' shall be inserted;

(*b*) in clause (*d*), for the words and figures 'section 55, sub-section (2)' the words, figures and letter 'clause (*c*) of sub-section (2) of section 55' and for the words 'an incorporated company' the words 'a company' shall be substituted; and the words 'or is employed as paid legal practitioner on behalf of the local board or accepts employment as legal practitioner against the local board' shall be omitted;

(c) after clause (d), the following clause shall be inserted, namely :—

"(dd) is employed as paid legal practitioner on behalf of the local board, or accepts employment as legal practitioner against the local board";

(d) for clause (e), the following clause shall be substituted, namely :—

"(e) is appointed as an officer or servant under this Act or as an honorary magistrate with jurisdiction over any part of the area of the local board."

(e) in clause (f), after the words 'accepts employment under' the words 'or becomes the official subordinate of' shall be inserted; and

(f) for clauses (g) and (h), the following clauses shall be substituted, namely :—

"(g) ceases to reside—

(i) in the case of a member of a district or taluk board in the district or taluk, as the case may be, or in a municipality (including the city of Madras) or a cantonment, situated within three miles of the district or taluk, and

(ii) in the case of a member of a panchayat, in the village ; or

(h) absents himself from the ordinary meetings of the local board for three consecutive months commencing from the date on which he last attended such a meeting or, if within that period less than two such meetings have been held, from two such meetings of the board held after the last ordinary meeting he attended :

Provided that no ordinary meeting from which a member absents himself shall be counted against him under this clause, if due notice of that meeting had not been given to him.

Explanation.—In this clause, the expression 'ordinary meeting' shall not include a meeting held under sub-rule (2) of rule 3 or under rule 4 of Schedule II."

(ii) in sub-section (3)—

(a) after the words and figure 'of sub-section (1)', the words and figures 'or under section 59' shall be inserted ;

(b) the words 'or appointed' in both the places where they occur shall be omitted ; and

(c) for the words 'vacate the office' the words 'vacate office' shall be substituted ; and

(iii) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) Where a person ceases to be a member under clause (h) of sub-section (1), the president shall at once intimate the fact in writing to such person and report the same to the board at its next meeting. If such person applies for restoration *suo motu* to the board on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the board may at the meeting next after the receipt of such application restore him to his office of member :

Provided that a member shall not be so restored more than twice during his term of office."

Amendment of section 57, Madras Act XIV of 1920.

50. In section 57 of the said Act—

(i) in sub-section (1)—

(*a*) the words 'or appointed' shall be omitted;

(*b*) for the words and figures 'under section 55 or section 56', the words and figures 'sub-section (1) of section 54, section 55, section 56 or section 59' shall be substituted; and

(*c*) after the words 'become disqualified for office', the words and figures 'under section 56 or section 59' shall be inserted;

(ii) in sub-section (2), for the words and figures 'section 55 or section 56' the words and figures 'sub-section (1) of section 54, section 55, section 56 or section 59' shall be substituted; and

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Pending such decision, the member shall be entitled to act as if he were not disqualified."

Amendment of section 59, Madras Act XIV of 1920.

51. In section 59 of the said Act—

(i) after the word 'conviction' the words 'or for such shorter period as the court may by order determine' shall be inserted; and

(ii) the proviso shall be omitted.

Amendment of section 60, Madras Act XIV of 1920.

52. In section 60 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) All public roads in any district shall vest in—

(*a*) the district board, if they are classed as district roads,

(*b*) the taluk board concerned, if they are classed as taluk roads, and

(*c*) the panchayat concerned, if they are not classed either as district or as taluk roads;" and

(ii) in sub-section (2), for the word 'erections' the word 'works' shall be substituted.

Amendment of section 63, Madras Act XIV of 1920.

53. In section 63 of the said Act—

(i) in sub-section (1)—

(*a*) for the words 'such local board' in both the places where they occur, the words 'the local board' shall be substituted, and

(*b*) after the words 'the local board shall manage,' the words 'and superintend' shall be inserted; and

(ii) in sub-section (2), for the words 'the authority referred to above' the words 'by any other authority' shall be substituted.

Amendment of section 64, Madras Act XIV of 1920.

54. In section 64 of the said Act, for the words 'the purposes' the words 'any purpose' shall be substituted.

Substitution of new sections for section 65, Madras Act XIV of 1920.

55. For section 65 of the said Act, the following sections shall be substituted, namely:—

"65. Subject to such rules as may be made by the Local Government, a district or taluk board or the president of a district or taluk board or a collector, or any private person or body of persons may, with the consent of a panchayat, make over to that panchayat, subject to such conditions as may be agreed upon, the management of any institution or the execution or maintenance of any work or the exercise of any power or the performance of any duty within or without the area over which the panchayat has jurisdiction. Transfer of institutions, works, etc., to panchayat.

"65-A. The Local Government may, subject to such conditions and the payment of such contribution, if any, by the panchayat as they may prescribe, transfer to any panchayat the management, protection and maintenance of village forests, whether reserved for fuel and fodder or for other purposes. Transfer of village forests to panchayats.

"65-B. The Local Government may, subject to such conditions as they may prescribe, transfer to any panchayat the protection and maintenance of any village irrigation work, the management of turns of irrigation, the enforcement of kudimaramat, or the regulation of the distribution of water from any irrigation work to the fields depending on it. Transfer of functions in respect of irrigation works to panchayats.

"65-C. The Local Government may, with the consent of a local board, make over to the local board, subject to such conditions as may be agreed upon, the management of any institution or the execution or maintenance of any work or the exercise of any power or the performance of any duty not provided for in this Act." Government's power to add to functions of local boards.

56. For section 67 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 67, Madras Act XIV of 1920.

"67. (1) The sanction of the local board shall be obtained for all proposals for fixing or altering the number, designations and grades of its officers and servants and the salaries, fees and allowances payable to them. Officers and servants of local board.

(2) Such proposals shall be taken into consideration by the local board only at the instance of its president and the local board may sanction them with or without modifications:

Provided that no proposal adversely affecting any officer or servant of the local board who has been in the permanent service of the local board for more than five years and is drawing a salary of not less than fifty rupees per mensem shall be considered except at a special meeting convened for the purpose and no such proposal shall be given effect to, unless assented to by at least one-half of the members then on the board."

57. For section 68 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 68, Madras Act XIV of 1920.

"68. (1) Every district board shall, if so required by the Local Government, sanction a post of district engineer, a post of district health officer and a post of district panchayat officer. The district engineer, health officer and panchayat officer.

(2) The salaries of these officers shall be fixed by the district board subject to the approval of the Local Government.

(3) Every such officer shall devote his whole time to the duties of his office and shall not engage in any other profession, trade or business.

(4) No such officer shall be removed from office except with the consent of the Local Government. Such consent shall be given if the removal is recommended by a resolution of the district board passed at a meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the board."

Amendment of section 69, Madras Act XIV of 1920.

58. In sub-section (1) of section 69 of the said Act, for the words "or district health officer" the words "district health officer or district panchayat officer" shall be substituted.

Substitution of new section for section 70, Madras Act XIV of 1920.

59. For section 70 of the said Act, the following section shall be substituted, namely:—

Filling up of appointments other than those of district engineer, health officer and panchayat officer.

"70. Excepting the district engineer, the district health officer and the district panchayat officer all officers and servants of a local board shall be appointed by the president in accordance with any rules which the Local Government may have made in this behalf:

Provided that in case of emergency—

(*a*) the president may appoint temporarily such officers or servants as may in his opinion be required for the purposes of this Act and the employment of whom for any particular work has not been prohibited by any resolution of the local board; and

(*b*) every appointment made under clause (*a*) shall be reported by the president to the local board at its next meeting."

Amendment of section 71, Madras Act XIV of 1920.

60. In sub-section (1) of section 71 of the said Act—

(i) in the opening paragraph, for the words and figures "provisions of sections 68 and 74 and any rules made by the Local Government" the words "provisions of this Act and of any rules which the Local Government may make" and for the words "on the staff of all local boards in the district," the words "on its staff and on the staff of all taluk boards and panchayats in the district" shall be substituted;

(ii) clauses (*a*) to (*h*) shall be re-lettered as clauses (*b*) to (*i*) respectively and the following clause shall be inserted as clause (*a*), namely:—

"(*a*) fixing the grades and scales of salaries, fees and allowances";

(iii) in clause (*d*) as re-lettered, for the words "and acting allowances" the words "acting allowances and travelling allowances" shall be substituted;

(iv) in clause (*f*) as re-lettered, for the words "contributions towards pensions may be paid" the words "pensionary contributions shall be paid" shall be substituted; and

(v) in proviso (i), for the words "and leave allowances, gratuity or pension granted under these regulations", the words "leave allowances, travelling allowances, pension or gratuity provided for in such regulations" shall be substituted.

Amendment of section 72, Madras Act XIV of 1920.

61. In section 72 of the said Act—

(i) for the word "fine" the words "censure, fine, withhold promotion from" shall be substituted;

(ii) after the words "officer or servant of the local board," the words "in its service" shall be inserted; and

(iii) for the words "or the district health officer" the words "the district health officer or the district panchayat officer" shall be substituted.

62. For section 73 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 73, Madras Act XIV of 1920

"73. (1) The Local Government may grant leave to the district engineer, the district health officer and the district panchayat officer and the president of the district board may grant leave to all other officers and servants of the district board. Power to grant leave to officers and servants of local boards.

(2) The president of a taluk board or panchayat may grant leave to all officers and servants of the taluk board or panchayat, as the case may be."

63. In sub-section (1) of section 74 of the said Act, after the words "to be employed" the words "by it" shall be inserted. Amendment of section 74, Madras Act XIV of 1920.

64. After section 74 of the said Act, the following section shall be added, namely:— Insertion of new section 74-A in Madras Act XIV of 1920.

"74-A. (1) Notwithstanding anything contained in this Act, the Local Government may, by notification, constitute any class of officers or servants of local boards into a local fund service for the Presidency of Madras: Provincialization of any class of officers or servants of local boards.

Provided that no notification shall be issued under this sub-section—

(i) unless all the local boards concerned have been consulted in respect thereof; and

(ii) unless a majority of the local boards so consulted have passed a resolution supporting such issue.

(2) Upon the issue of a notification under sub-section (1) the Local Government shall have power, subject to the provisions of section 201-A, to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the local fund service thereby constituted and such rules may vest jurisdiction in relation to such service in the Local Government or in such other authority or authorities as may be prescribed therein."

65. Before section 75 of the said Act, the following section shall be inserted, namely:— Insertion of new section 74-B in Madras Act XIV of 1920.

"74-B. In every district, a land-cess being a tax on the annual rent value of lands shall be levied in accordance with the provisions hereinafter contained in this Act." Land-cess.

Amendment of section 75, Madras Act XIV of 1920.

66. In section 75 of the said Act,

(i) in sub-section (1)—

(*a*) for the words "The district board may determine" the words "A district board may by a resolution determine" shall be substituted;

(*b*) items (i) and (ii) shall be omitted and items (iii) to (v) re-numbered as (i) to (iii) respectively;

(*c*) in item (ii) as re-numbered, for the words "tax on houses" the word "house-tax" shall be substituted; and

(*d*) the following shall be inserted as a proviso at the end :—

"Provided that nothing in this sub-section shall be deemed to enable a district board to levy a house-tax in any area in which, prior to the first day of April 1930, a house-tax was not levied in pursuance of a resolution of the district board under this sub-section."

(ii) sub-section (2) shall be re-numbered as sub-section (3) and the following shall be inserted as sub-section (2), namely :—

"(2) (*a*) A panchayat may recommend to the Local Government, as convenient and suitable to the village, any tax, not being a land-cess or a tax which may be levied in the village by a district board under sub-section (i) or under section 76, and on such recommendation the Local Government may, by notification, sanction its levy in the village.

(*b*) No recommendation for the levy of any tax shall be submitted by a panchayat under clause (*a*) unless such levy is sanctioned by a resolution of the panchayat supported by not less than one-half of its sanctioned strength at a meeting specially convened for the purpose."

(iii) in sub-section (3) as re-numbered—

(*a*) in clause (*a*), after the word "taxes" the words "and tolls" and after the word "district" the word "and" shall be insered; and

(*b*) in clause (*b*), after the words "any resolution" the words "of the district board" shall be inserted and for the words "reported to the Government" the words "reported to the Local Government" shall be substituted; and

(iv) after sub-section (3) as re-numbered, the following sub-section shall be inserted, namely :—

"(4) Where a resolution under sub-section (1) or a notification under sub-section (2) has taken effect for a particular year, no proposals to alter the rates or date fixed in such resolution or notification so far as that year is concerned shall, without the sanction of, or a direction from, the Local Government, be taken into consideration by the district board or panchayat, as the case may be."

Amendment of section 76, Madras Act XIV of 1920.

67. In section 76 of the said Act—

(i) after the words "A district board may" the words "by a resolution" shall be inserted;

(ii) for the words "entering or leaving by railway any place of pilgrimage situated in the district" the words "travelling by railway from any station notified under section 110 in or near any local area in the district which is resorted to by pilgrims" shall be substituted; and

(iii) in the proviso, for the words "such a tax" the words "such tax" and for the words "purposes other than the improvement or development of the place of pilgrimage" the words "purposes other than making arrangements for the health and comfort of the pilgrims

resorting to, or the improvement or development of, such local area" shall be substituted and the words "except with the sanction of the Local Government" shall be omitted.

68. For section 77 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 77, Madras Act XIV of 1920.

"77. (1) (*a*) Any resolution of a district board determining to levy any tax or toll under sub-section (1) of section 75 or under section 76 shall specify the local limits of the area in which, the rate at which, the date from which and the period of levy, if any, for which, such tax or toll shall be levied. Resolution and notification regarding levy of taxes and tolls.

(*b*) When by any such resolution, a district board determines to levy any tax or toll for the first time or at a new rate, the president of the district board shall forthwith publish a notification in the prescribed manner specifying the particulars referred to in clause (*a*) and contained in such resolution.

(2) Any notification of the Local Government sanctioning the levy of any tax in a village under sub-section (2) of section 75 shall specify the particulars referred to in clause (*a*) of sub-section (1) and be published in the prescribed manner."

69. For section 78 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 78, Madras Act XIV of 1920.

"78. The land-cess shall be levied on the annual rent value of all occupied lands on whatever tenure held and shall consist of a tax of one anna and a half in the rupee of the annual rent value of all such lands in the district." Land-cess.

70. In section 79 of the said Act— Amendment of section 79, Madras Act XIV of 1920.

(i) for the opening paragraph beginning with the words "If the president of the district board notifies" and ending with the words "calculated in the following manner," the following paragraph shall be substituted namely :—

"The annual rent value shall, for the purposes of section 78, be calculated in the following manner";

(ii) in clause (i)—

(*a*) for the word 'land' in both the places where it occurs, the word 'lands' and for the words 'for its irrigation,' the words 'for their irrigation' shall be substituted ; and

(*b*) the words 'of such lands' occurring at the end shall be omitted ;

(iii) for clauses (iii) and (iv), the following clauses shall be substituted, namely :—

"(iii) In the case of lands held on any other tenure, the annual rent payable to the landholder, sub-landholder or any other intermediate landholder holding on an under-tenure created, continued or recognized by a landholder or sub-landholder, as the case may be, by his tenants, together with any water-rate which may be payable for their irrigation, shall be taken to be the annual rent value ; and where such lands are

occupied by the owner himself or by any person holding the same from him free of rent or at a favourable rent, the annual rent value shall be calculated according to the rates of rent usually paid by occupancy ryots for ryoti lands in the neighbourhood with similar advantages, together with any water-rate which may be payable for the irrigation of the lands so occupied.

(iv) In the case of lands. the assessment or rent of which is paid in kind, the annual rent value shall be calculated according to the rates of rent established or paid for neighbouring lands of a similar description and quality, together with any water-rate which may be payable for the irrigation of the lands first mentioned, or if such method of calculation is, in the opinion of the Board of Revenue, impracticable in any particular case, according to any method which the Board of Revenue may approve for that case :"; and

(v) in the proviso after the words ' any landholder ' the words ' or sub-landholder ' shall be inserted.

Substitution of new section for section 80, Madras Act XIV of 1920.

71. For section 80 of the said Act, the following section shall be substituted, namely :—

Certain landholders and sub-landholders to furnish lists of their lands to district collector.

" 80 (1) The district collector may, by notification or otherwise require every landholder being a proprietor of an estate falling under clause (*a*), (*b*) or (*c*) of the definition of 'estate' in the Madras Proprietary Estates' Village Service Act, 1894, and every sub-landholder, within the district, to furnish him with an accurate list of the lands held by him, whether occupied by tenants or by himself, specifying the particulars referred to in sub-section (2).

(2) (*a*) The list furnished by a landholder under sub-section (1) shall specify—

(i) in the case of lands held by a sub-landholder under him, the kattubadi, jodi, poruppu or quit-rent payable to him by such sub-landholder ; and

(ii) in the case of any other lands occupied by the landholder, the annual rent value thereof exclusive of the water-rate, if any, payable by his tenants direct to Government.

(*b*) The list furnished by the sub-landholder under sub-section (1) shall specify the annual rent value of the lands occupied by him, exclusive of the water-rate, if any, payable by his tenant direct to Government.

(3) When two or more persons hold a revenue village or villages jointly, the landholder or sub-landholder shall, for the purpose of sub-sections (1) and (2), be the person who is recognized by the other joint holders as the senior joint holder or who, in case of dispute, is recognized by the district collector as such."

Amendment of section 81, Madras Act XIV of 1920.

72. In section 81 of the said Act—

(i) after the words ' furnished by a landholder ' the words ' or sub-landholder ' shall be inserted ;

(ii) for the words 'the last preceding section' the word and figures ' section 80 ' shall be substituted ;

(iii) after the words 'such landholder' the words ' or sub-landholder' shall be inserted ; and

(iv) the words ' for the tax due in respect of lands held by him as aforesaid ' shall be omitted.

73. For section 82 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 82, Madras Act XIV of 1920.

"82. If a landholder or a sub-landholder shall neglect to comply with a requisition made under section 80 within six months from the date of receipt by him of such requisition he shall be liable to a penalty not exceeding fifty rupees for every day's delay after the expiry of the six months, until the list be furnished or until the annual rent value of his lands shall have been fixed by the district collector as provided in section 83. The amount of such penalty shall be fixed by the district collector and shall be recoverable as an arrear of land-cess." Penalty for failure to furnish such lists.

74. In section 83 of the said Act, for the words ' any landholder ' the words ' a landholder or sub-landholder ', for the words ' six months aforesaid ' the words and figures ' period of six months referred to in section 82 ' and for the words ' lands held by such landholder as aforesaid' the words ' lands of such landholder or sub-landholder ' shall be substituted. Amendment of section 83, Madras Act XIV of 1920.

75. In section 84 of the said Act, for the words ' such list' the words 'such list' and for the words 'the last preceding section' the word and figure 'section 83 ' shall be substituted. Amendment of section 84, Madras Act XIV of 1920.

76. In section 85 of the said Act, for the words 'furnished to him as aforesaid ', the words ' furnished to him by a landholder or sub-landholder', for the words ' such landholder ' the words ' such landholder or sub-landholder', for the words 'such amended list' the words ' the list as so amended', and for the words ' lands held by him as aforesaid' the words 'lands of such landholder or sub-landholder' shall be substituted. Amendment of section 85, Madras Act XIV of 1920.

77. In section 86 of the said Act— Amendment of section 86, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'under the last preceding section' the words and figure 'under section 85' shall be substituted; and

(ii) in sub-section (2) for the word 'when' the words ' on which ' shall be substituted ; and after the words ' to the landholder ' the words ' or sub-landholder' shall be inserted ;

(iii) in sub-section (3), after the words 'order made,' the words ' by the Board of Revenue ' shall be inserted.

78. In section 87 of the said Act, for the words ' land held ' the words ' lands held ' shall be substituted. Amendment of section 87, Madras Act XIV of 1920.

79. For section 88 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 88 Madras Act XIV of 1920.

"88. Every landholder and sub-landholder shall pay to the district collector or other officer empowered by him to receive it, the land-cess due in respect of lands held by him exclusive of the amount of such cess, if any, payable by the sub-landholder or landholder as the case may be and by the tenant, on or before such dates and in such instalments as the district collector under the general orders of the Payment of land-cess by landholders and sub-landholders.

Board of Revenue may, by notification, declare. And if such lands be occupied by a tenant paying water-rate direct to Government, such tenant shall pay to the district collector together with the water-rate the land-cess due on the amount of such water-rate :

Provided that in all cases where a person holds lands with or without a right of occupancy as an intermediate landholder on an undertenure created, continued or recognized by a landholder or sub-landholder, it shall be lawful for the landholder or sub-landholder to recover from such intermediate landholder the whole of the cess paid by the landholder or sub-landholder in respect of lands held by such intermediate landholder less one-half the cess assessable on the amount of any kattubadi, jodi, poruppu or quit-rent payable by such intermediate landholder to the landholder or sub-landholder :

Provided also that in the case of lands occupied by tenants, it shall be lawful for the landholder, sub-landholder or any other intermediate landholder, as the case may be, to recover from his tenant one-half of the amount payable by such landholder, sub-landholder or intermediate landholder in respect of the lands so occupied."

Amendment of section 89, Madras Act XIV of 1920.

80. (1) In section 89 of the said Act—

(i) for the words ' or intermediate landholder ' after the words ' Every landholder ' the words ' sub-landholder or any other intermediate landholder ' shall be substituted ;

(ii) for the words ' collecting or recovering the portion which may be due to him under the provisos to the last preceding section,' the words and figures ' recovering any amount which may be due to him under the provisos to section 88 ' shall be substituted ;

(iii) for the word ' regulation,' the word ' Regulation ' shall be substituted ; and

(iv) the words ' collection and ' shall be omitted.

(2) To the same section the following Explanation shall be added, namely :—

" *Explanation*.—A landholder or sub-landholder shall, in recovering the amount due to him, under the first proviso to section 88 from the intermediate landholder referred to therein, be entitled to exercise the powers and be subject to the penalties specified in this section, as if the intermediate landholder were a ryot with whom a patta and muchilika had been exchanged and the provisions of the Madras Estates Land Act, 1908, shall, so far as may be, be applicable thereto."

Amendment of section 90, Madras Act XIV of 1920.

81. In section 90 of the said Act—

(i) for the words and figures ' coming within the meaning of clause (iii) of section 79,' the words and figures ' to whom clause (iii) of section 79 applies ' and for the word ' tax' the word ' cess ' shall be substituted ; and

(ii) the word ' whole ' occurring before the words ' annual rent value ' shall be omitted.

Substitution of new section for section 91, Madras Act XIV of 1920.

82. For section 91 of the said Act, the following section shall be substituted, namely :—

"91. If a landholder or sub-landholder shall, on any date fixed by the district collector under section 88, have failed to pay either in whole or in part the cess due by him in respect of his lands or if a tenant shall have failed to pay either in whole or in part the cess due by him on the water-rate payable direct by him to Government in respect of lands occupied by him, the said cess or such part of it as remains unpaid shall be recoverable as if it were an arrear of revenue under the Madras Revenue Recovery Act, 1864, and the provisions contained in section 42 of the said Act shall be applicable to all lands brought to sale for arrears of cess." Recovery of arrears of cess.

83. Section 92 of the said Act and the heading thereof shall be omitted. Repeal of section 92, Madras Act XIV of 1920.

84. For sections 93, 94, 95 and 96 of the said Act and the heading occurring before section 95, the following sections shall be substituted, namely :— Substitution of new sections for sections 93 to 96, Madras Act XIV of 1920.

"93. (1) If the district board by a resolution determines that a profession tax shall be levied in any local area— Profession tax.

every company which, after the date specified in the notification published under clause (*b*) of sub-section (1) of section 77 transacts business in such local area for not less than sixty days in the aggregate in any half-year ; and

every person who, after the said date, in any half-year—

(*a*) exercises a profession, art or calling or transacts business or holds any appointment, public or private—

(i) within such local area for not less than sixty days in the aggregate, or

(ii) without such local area, but who resides in it for not less than sixty days in the aggregate ; or

(*b*) resides in such local area for not less than sixty days in the aggregate and is in receipt of any pension or income from investments

shall pay a half-yearly tax assessed in accordance with the rules in Schedule IV.

(2) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.

(3) If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, or the companies or profession tax levied under the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, or any tax of the nature of a profession tax imposed under the Cantonments Act, 1924, for the same half-year to any local board or municipal council or cantonment authority in the Presidency of Madras, such company or person shall not be liable by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other local board, municipal council or cantonment authority more than the difference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half-year under this Act or any of the aforesaid Acts.

(4) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liabe to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the Local Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Local Government shall be final.

Liability of members of firms, associations and joint Hindu families to profession tax

94. The profession tax leviable from a firm, association or joint Hindu family may be levied from any adult member of the firm, association or family.

Liability of servants or agents to profession tax

94-A. (1) If a compauy or person employs a servant or agent to represent it or him for the purpose of transacting business in any local area, such company or person shall be deemed to transact business in the local area and such servant or agent shall be liable for the profession tax in respect of the business of such company or person whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(2) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax on the same income as that of the principal.

Profession tax to be credited to village.

95. The profession tax levied in any village shall be credited to the village fund. The panchayat and its president shall exercise the powers regarding the assessment and recovery of the tax conferred by Schedule IV.

Service of notice on failure of payment of tax.

96. If the profession tax due from any company or person is not paid, the president of the panchayat shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.

Statements, returns, etc., to be confidential.

96-A. All statements made, returns furnished or accounts or documents produced in connexion with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public."

Amendment of section 97, Madras Act XIV of 1920.

85. In section 97 of the said Act—

(i) for the words 'president of the taluk or union board as the case may be', the words 'president of the panchayat' shall be substituted;

(ii) for the words 'persons occupying such building or land', the words 'persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers' shall be substituted; and

(iii) the word 'trade' occurring after the words 'profession, art', shall be omitted.

Substitution of new heading for the heading to sections 98 to 103, Madras Act XIV of 1920.

86. For the heading 'Tax on houses' of sections 98 to 103 of the said Act, the heading 'House-tax' shall be substituted.

87. For section 98 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 98, Madras Act XIV of 1920.

"98. If the district board by a resolution determines or if the Local Government notifies that a house-tax shall be levied in any village, such tax shall, at the rate and from the date specified in the notification published under clause (*b*) of sub-section (1) or sub-section (2) of section 77, as the case may be, be levied on all houses situated within the village, subject to the conditions laid down in the rules in Schedule IV." House-tax.

88. In section 99 of the said Act— Amendment of section 99, Madras Act XIV of 1920.

(i) in clause (*a*) after the words 'educational purposes', the words 'including hostels' shall be inserted, and after the words 'open to the public' the words 'public buildings used for the charitable purpose of sheltering the destitute or animals and such ancient monuments protected under the Ancient Monuments Preservation Act, 1904, or parts thereof as are not used as residential quarters or as public offices' shall be added ; and

(ii) in clause (*b*) after the word 'purposes' the words 'and such hospitals or dispensaries maintained by railway administrations as may from time to time be notified by the Local Government', shall be added ; and

(iii) the following Explanation shall be added at the end, namely :—

"*Explanation.*—The exemption granted under this section shall not extend to residential quarters attached to schools and colleges not being hostels or to residential quarters attached to hospitals, dispensaries and libraries."

89. For section 100 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 100, Madras Act XIV of 1920.

"100. The house-tax shall be levied every half-year and shall, save as otherwise expressly provided in Schedule IV, be paid by the owner of the house within thirty days after the commencement of the half-year." House-tax, when payable.

90. For section 101 of the said Act, the following section shall be substituted, namely :— Substitution of new section for section 101, Madras Act XIV of 1920.

"101. (1) When any house has been vacant for sixty or more consecutive days in any half-year, the president of the panchayat shall remit so much, not exceeding one-half of the amount of the tax, as is proportionate to the number of days during which the house was vacant in the half-year. Vacancy remission.

(2) Every demand for remission under sub-section (1) shall be made during the half-year in respect of which the remission is sought or in the following half-year and not afterwards.

(3) (*a*) No demand for such remission shall be entertained unless the owner of the house or his agent has previously thereto given notice to the president of the house being vacant and the period in respect of which the remission is made shall be calculated from the date of delivery of such notice.

(*b*) Every such notice shall expire with the half-year during which it is so delivered and shall have no effect thereafter."

Insertion of new section 101-A in Madras Act XIV of 1920.

91. After section 101 of the said Act, the following section shall be inserted, namely :—

Obligation of transferor and transferee to give notice of transfer.

" 101-A. (1) Whenever the title of any person, primarily liable to the payment of house-tax on any house, to or over such house is transferred, the person whose title is transferred and the person to whom the same shall be transferred, shall within three months after the execution of the instrument of tranfer or after its registration if it be registered, or after the transfer is effected if no instrument be executed, give notice of such transfer to the president of the panchayat.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give written notice of such transfer to the president within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the president may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the president any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the president shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of house-tax assessed on the house transferred until he gives notice or until the transfer shall have been recorded in the village registers, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax."

Substitution of new section for section 102, Madras Act XIV of 1920.

92. For section 102 of the said Act, the following section shall be substituted, namely :—

Owner's obligation to give notice of construction, reconstruction or demolition of building.

"102. (1) (*a*) If any house in a village is constructed or reconstructed, the owner shall give notice thereof to the president of the panchayat within fifteen days from the date of completion or occupation of the house, whichever is earlier.

(*b*) If such date falls within the last two months of a half-year, the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the house for that half-year.

(*c*) If such date falls within the first four months of a half-year. the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of so much not exceeding a half of the tax or

enhanced tax, as the case may be, payable in respect of the house for that half-year as is proportionate to the number of days in that half-year preceding such date.

(2) (a) If any house in a village is demolished or destroyed, the owner shall, until notice thereof is given to the president, be liable at his discretion for the payment of the tax which would have been payable had the house not been demolished or destroyed.

(b) If such notice is given within the first two months of a half-year, the owner shall be entitled to a remission of the whole of the tax payable in respect of the house for that half-year.

(c) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the house for that half-year as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be."

93. After section 102 of the said Act, the following section shall be inserted, namely :— Insertion of new section 102-A in Madras Act XIV of 1920.

"102-A. (1) If any area is included within a village the owner of every house in such area shall— Remission of tax in areas included or excluded in the middle of a half-year.

(a) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any house-tax in respect thereof for that half year ; and

(b) if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the house-tax payable in respect thereof for that half-year as is proportionate to the number of days in that half-year preceding such date.

(2) If any area is excluded from a village the owner of every house in such area shall be entitled—

(a) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the house-tax payable in respect thereof for that half-year ; and

(b) if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the house-tax payable in respect thereof for that half-year as is proportionate to the number of days in that half-year preceding such date.

(3) No remission shall be granted under sub-section (2) in respect of any house unless an application for such remission is made to the president within three months from the date of the exclusion of the area in which the house is situated."

94. In section 103 of the said Act— Amendment of section 103, Madras Act XIV of 1920.

(i) in the first sentence—

(a) for the words 'union board' the word 'panchayat' and for the words 'in union' the words 'in the village' shall be substituted ; and

(b) the words 'or occupier' shall be omitted ; and

(ii) in the second sentence, for the words 'taluk board' the words 'district board' and for the words 'any classes of houses' the words 'the owners of any class of houses' shall be substituted.

95. In section 104 of the said Act— Amendment of section 104, Madras Act XIV of 1920.

(i) in sub-section (1)—

(*a*) for the words 'president of the district board notifies under section 77', the words 'district board by a resolution determines' shall be substituted; and

(*b*) after the word 'notification' at the end, words and figure 'published under clauce (*b*) of sub-section (1) of section 77' shall be added ;

(ii) in sub-section (2)—

(*a*) for the word 'rules' the word 'regulation' shall be substituted ;

(*b*) after the words 'framed by the board' the words 'in this behalf' shall be inserted ;

(*c*) for the words 'toll-gates' and 'toll-gate' the words 'toll-stations' and 'toll-station' shall respectively be substituted ; and

(*d*) for the words 'and animals' the words 'palanquins or animals or in respect of himself as the case may be' shall be substituted ;

(iii) in sub-section (3)—

(*a*) after the word 'carts' the word 'palanquins' shall be inserted;

(*b*) in clause (*c*), for the words 'by the district board' the words and figure 'under sub-section (2)' shall be substituted ;

(*c*) in clause (*d*), the word 'or' at the end shall be omitted ;

(*d*) in clause (*e*), the word 'or' shall be added at the end ;

(*e*) after clause (*e*), the following clause shall be inserted, namely :—

"(*f*) conveying a member of the Auxiliary Force, India, or of the Indian Territorial Force, in uniform and on duty or proceeding to or returning from duty ;", and

(*f*) in the last paragraph, for the words 'or local board servants on duty' the words 'local board officers and servants on duty or members of the Auxiliary Force, India, or of the Indian Territorial Force, in uniform and on duty or proceeding to or returning from duty' shall be substituted ; and

(iv) in sub-section (4) for the words 'gate or bridge' in both the places where they occur, the word "toll-station" shall be substituted.

Amendment of section 106, Madras Act XIV of 1920.

96. In section 106 of the said Act—

(i) (*a*) in sub-section (1) for the words "shall construct toll-bars, gates and gate-keepers' stations" the words "shall construct toll-stations and may construct toll-bars" and for the word 'by-laws' the word 'regulations' shall be substituted ; and

(*b*) to the same sub-section, the following provisos shall be added, namely :—

" Provided that the Local Government may, either generally or in any particular case, issue such orders as they may deem fit for regulating the number and location of toll-stations and determining in the case of neighbouring local authorities which of the local authorities shall be in charge of particular toll-stations and how much of the revenue realized by any such local authority from a toll-station or toll-stations in its charge shall be paid to another neighbouring local authority :

Provided further that after the coming into force of the Madras Local Boards (Amendment) Act, 1930, no new toll-station shall be opened

by any district board within twenty miles of another toll-station, whether in the same district or not, without the previous sanction of the Local Government ; " and

(ii) in sub-section (2), for the words ''toll-bar, gate or station' in both the places where they occur, the word 'toll-station' shall be substituted.

97. In section 107 of the said Act— *Amendment of section 107, Madras Act XIV of 1920.*

(i) in sub-section (1), for the words 'toll-bar, gate or station' the word 'toll-station' shall be substituted ; and

(ii) in sub-section (2), for the words 'as the district board may prescribe' the words 'as the district board may specify' shall be substituted.

98. For section 109 of the Act, the following section shall be substituted, namely :— *Substitution of new section for section 109, Madras Act XIV of 1920.*

"109. (1) No person shall with intent to evade payment of toll cause a carriage, cart, palanquin or animal— *Evasion or refusal of payment of tolls.*

(*a*) to pass a toll-station in a rapid or surreptitious manner ;

(*b*) to pass a toll-station without stopping if he is required by the toll-keeper to stop ; or

(*c*) to leave a road on which a toll-station has been placed and pass over any land within a quarter of a mile therefrom, such land not being either a public road or land of which such person is the owner or occupier.

(2) No person shall refuse on demand to pay the toll legally demandable fom him or resist or refuse to permit the seizure and detention of any article which may be seized and detained under section 107."

99. For section 110 of the said Act, the following section shall be substituted, namely :— *Substitution of new section for section 110, Madras Act XIV of 1920.*

"110. (1) Where a local area is resorted to by pilgrims and the occasions for pilgrimage occur at intervals of years or only once or twice in a single year, a tax on persons leaving such area or its neighbourhood by railway shall be levied only for a specified period in respect of each such occasion. Where occasions for pilgrimage are more frequent or a place of pilgrimage is one of perennial resort, the tax may be levied throughout the year. *Levy of pilgrim tax.*

(2) The occasion and the period of levy of the tax shall, in consultation with the railway administrations concerned and with the previous approval of the Local Government, be determined by the district board.

(3) If the district board by a resolution determines that the tax shall be levied, such tax shall be collected from the date and during the period specified in the notification published under clause (*b*) of sub-section (1) of section 77 in pursuance of such resolution as a surcharge on the tickets of all passengers travelling by railway from any one of the

railway stations in or near the local area and named in such notification to any other railway station more than a specified distance therefrom.

(4) The rates at which the tax shall be levied on each class of tickets shall be determined by the district board but shall not exceed the rates in the following table :—

(1)	Tax: For limited periods. (2) RS.	A.	P.	Tax: Throughout the year. (3) RS.	A.	P.
For first-class tickets	0	8	0	0	4	0
For second-class tickets	0	4	0	0	2	0
For intermediate-class tickets	0	3	0	0	1	6
For third-class tickets	0	2	0	0	1	0

Provided that the rates leviable on season tickets, if any, shall be determined by the district board in consultation with the railway administrations concerned but shall not for a period of one month or any less period exceed six times the rates given in column (2) of the above table.

(5) The Local Government may make rules not inconsistent with this Act for regulating—

(i) the collection of the tax,

(ii) the payment thereof to the local board concerned,

(iii) the deduction of any expenses incurred by railway administrations in the collection thereof ; and

(iv) the decision of disputes—

(*a*) between local boards and between local boards and other local authorities ; and

(*b*) with the previous sanction of the Government of India, between local boards and railway administrations in matters connected with the levy, collection or apportionment of the tax."

Amendment of section 111, Madras Act XIV of 1920.

100. (1) Before section 111 of the said Act, the heading 'Exemption and Waiver' shall be inserted and to the same section, the following sentence shall be added, namely :—

"But nothing in this section shall be deemed to authorize the exemption of any person solely on the ground that he is a member of a local board."

Insertion of new sections 111-A in Madras Act XIV of 1920.

(2) After the same section, the following section shall be added, namely :—

Power to write off irrecoverable taxes, tolls, etc.

"111-A. Subject to such restrictions and control as may be prescribed, a local board may write off any tax, toll, fee or other amount whatsoever due to it, whether under a contract or otherwise or any sum payable in connexion therewith, if, in its opinion, such tax, toll, fee, amount or sum is irrecoverable."

Amendment of section 112, Madras Act XIV of 1920.

101. In section 112 of the said Act—

(i) in sub-section (1)—

(*a*) in clause (ii), for the words 'the local boards' the words 'the local board' shall be substituted ;

(*b*) in clause (iii), after the word 'markets' the words 'shops, stalls, and plinths' shall be inserted;

(*c*) in clause (vii), for the words 'a local board' the words 'the local board' shall be substituted; and

(*d*) in clause (ix), after the words 'public utility' the words and brackets '(including agricultural, industrial or trading concerns)' shall be inserted; and

(ii) in sub-section (2), before the words 'be applicable to such purposes outside the local board area' the words 'subject as aforesaid' shall be inserted.

102. In section 113 of the said Act— Amendment of section 113, Madras Act XIV of 1920.

(i) in sub-section (1)—

(*a*) in clause (*a*), for the words 'the local area for which it is established' the words 'the district' shall be substituted; and

(*b*) in clause (*b*), for the words and figures 'company registered under the Indian Companies Act, 1913,' the words and figures 'company as defined in the Indian Companies Act, 1913,' shall be substituted;

(ii) in sub-section (2), for the words 'the local area for which it is established' the words 'the district' shall be substituted; and

(iii) in sub-section (3), for the words and figures 'in regard to the matters specified in sub-sections (1) and (2),' the words and figures 'in regard to any of the matters specified in sub-section (1) or (2)' shall be substituted.

103. In section 114 of the said Act, for the words 'for each union a union fund' the words 'for each village a village fund' shall be substituted. Amendment of section 114 Madras Act XIV of 1920.

104. After section 114 of the said Act, the following section shall be inserted, namely:— Insertion of new section 114-A in Madras Act XIV of 1920.

"114-A (1) Every district board shall maintain a fund called a Village Development Fund which shall be constituted, controlled and administered as provided in this section. Village Development Fund.

(2) The fund shall comprise—

(*a*) one-sixth of the land-cess levied in the district under section 78,

(*b*) all sums contributed by the Local Government thereto, and

(*c*) all other sums which may be received for the purposes thereof.

(3) All moneys derived from the sources specified in sub-section (2) shall be paid into the account of the district board but shall be credited to its Village Development Fund.

(4) The fund shall be utilized for the following purposes only:—

(*a*) the development of village communications,

(*b*) the provision of water-supply, and

(*c*) the promotion of sanitation and public health.

(5) The fund shall be administered by a committee consisting of the persons for the time being exercising the functions of the president of the district board and of the presidents of the taluk boards in the

district. The person exercising the functions of the president of the district board shall be the president of the committee.

(6) All orders or cheques on the fund shall be signed by the president of the committee or by some person duly authorized in that behalf by him.

(7) The committee shall, in each year, not later than such date as may be fixed under sub-section (1) of section 117 for the submission by the district board of the consolidated budget, submit to the Local Government a statement showing the probable receipts and expenditure of the fund for the following year.

(8) The accounts of the fund shall be audited along with and in the same manner as the accounts of the district board and all the provisions of this Act or of any rules made thereunder which apply to the audit of the accounts of the district board shall *mutatis mutandis* apply to the audit of the accounts of the fund.

(9) Subject to such rules as the Local Government may make in this behalf, the committee may make by-laws for the transaction of its business and for carrying out any of the purposes for which it is constituted."

Amendment of section 115, Madras Act XIV of 1920.

105. In section 115 of the said Act, for the words 'the receipts to be placed to the credit of, and the charges to be debited to, district, taluk and union funds' the words 'the charges to be debited to, and the receipts to be placed to the credit of village, taluk and district funds' shall be substituted.

Amendment of section 116, Madras Act XIV of 1920.

106. In section 116 of the said Act—

(i) in sub-section (1), for the words 'his board' the words 'the local board' shall be substituted; and

(ii) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) Every local board shall sanction the budget with such modifications, if any, as it thinks fit.

(3) The budget of a taluk board and the budget of a panchayat shall, after being so sanctioned, be submitted to the district board and the taluk board respectively. If such budget fails to provide for the due discharge of all liabilities in respect of loans or for the maintenance of a working balance, the district board or the taluk board, as the case may be, may direct that any part of such budget shall be so modified as to ensure that such provision is made."

Amendment of section 117, Madras Act XIV of 1920.

107. In section 117 of the said Act—

(i) in sub-section (1), for the words and figures 'not later than 15th February in each year' the words 'in each year, not later than such date as may be fixed in this behalf by the Local Government' and for the words 'of all local boards in the district' the words 'of itself and of all taluk boards and panchayats in the district' shall be substituted; and

(ii) in sub-section (2), for the words 'any part of it shall be so altered' the words 'any part of the budget shall be so modified' shall be substituted.

Amendment of section 118, Madras Act XIV of 1920.

108. In section 118 of the said Act, for the words 'may fix' the words 'shall fix' and for the words 'local boards' the words 'taluk boards and panchayats' shall be substituted.

109. In section 119 of the said Act, for the word and figures 'section 116' the words and figures 'sections 116 and 117' shall be substituted. Amendment of section 119, Madras Act XIV of 1920.

110. In section 120 of the said Act, for the words 'receipts and expenditure of the local fund' the words 'the receipts and expenditure of every local fund' shall be substituted. Amendment of section 120, Madras Act XIV of 1920.

111. After section 121 of the said Act, the following section shall be inserted, namely :— Insertion of new section after section 121 of Madras Act XIV of 1920.

"121-A. Notwithstanding anything contained in the Local Authorities Loans Act, 1914, the Local Government shall be entitled to recover in the manner provided by sub-section (3) of section 41 of this Act or by suit, any loan or advance made to any local board for any purpose to which the funds of the said board may be applied under this Act." Recovery of loans and advances made by the Local Government.

112. In section 122 of the said Act— Amendment of section 122, Madras Act XIV of 1920.

(i) for the words 'The president of the taluk board in non-union areas and the president of the union board in union areas' the words 'The president of a panchayat' shall be substituted ; and

(ii) in the proviso, for the words 'paid by the taluk or union board from the taluk or union fund' the words 'paid by the panchayat from the village fund' shall be substituted.

113. In section 123 of the said Act— Amendment of section 123, Madras Act XIV of 1920.

(i) in sub-section (1),

(a) for the words 'president of a taluk or union board' the words 'president of a panchayat' shall be substituted ;

(b) for the words 'prove injurious to the health of the neighbourhood' the words 'prove injurious to health or offensive to the neighbourhood' shall be substituted ;

(c) the words 'with the approval of the local board concerned' shall be omitted ; and

(d) after the words 'require the owner' the words 'or other person having control' shall be inserted ; and

(ii) in sub-section (2)—

(a) for the words 'an owner', the words 'any person' shall be substituted ;

(b) for the words 'local board' in both the places where they occur, and for the words 'board concerned' the word 'panchayat' shall be substituted ; and

(c) for the words 'local board's decision' the words 'decision of the panchayat' shall be substituted.

114. In section 124 of the said Act— Amendment of section 124, Madras Act XIV of 1920.

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) (a) The panchayat may, in the interests of public health, regulate or prohibit the washing of animals or of clothes or other articles or, fishing, in any public spring, tank, or well or in any public water-course or part thereof and may set apart any such place for

drinking or for bathing or for washing animals or clothes or for any other specified purpose.

(*b*) The powers conferred by clause (*a*) may, in the case of any private spring, tank, well or water-course, be exercised by the panchayat, with the consent of the owner of such place.

(*c*) The panchayat may, in the interest of public health, regulate or prohibit the washing of animals or of clothes or of other articles in any private spring, tank, well or water-course from which the public have a right to take water for drinking purposes " and

(ii) in sub-section (2), for the words 'taluk or union board' the word 'panchayat' and for the words 'within the limits of such board's jurisdiction' the words 'in the village' shall be substituted.

Amendment of section 125, Madras Act XIV of 1920.

115. In clause (*a*) of section 125 of the said Act—

(i) after the word 'drinking' the words 'or cooking' shall be inserted; and

(ii) for the words 'by a taluk or by a union board' the words 'by a panchayat' shall be substituted.

Substitution of new section for section 126, Madras Act XIV of 1920.

116. For section 126 of the said Act, the following section shall be substituted namely :—

Maintenance of wells, tanks, etc., by panchayats.

"126. Every panchayat—

(i) shall maintain in a cleanly condition all wells, tanks and reservoirs in the village which are not private property and may fill them up or drain them when it appears necessary so to do; and

(ii) shall have control of all waterways in the village other than waterways which are, or are connected with, works of irrigation, not being private property and not being specially excepted by any order of the Local Government or of the district board and may do all things necessary for the maintenance, repair and improvement thereof."

Amendment of section 127, Madras Act XIV of 1920.

117. In section 127 of the said Act, for the words 'taluk or union board' in both the places where they occur, the word 'panchayat' shall be substituted.

Substitution of new section for section 128, Madras Act XIV of 1920.

118. For section 128 of the said Act, the following section shall be substituted, namely :—

Contributions from persons having control over places of pilgrimage, etc.

"128. Where a mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a taluk or village or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety, or convenience, whether permanent or temporary, shall be made by the taluk board or the panchayat as the case may be and the taluk board or panchayat may require the trustee or other person having control over such place to make such recurring or non-recurring contribution to its funds as the Local Government may determine."

119. After section 129 of the said Act, the following heading and section shall be inserted, namely :— Insertion of new section 129-A in Madras Act XIV of 1920.

" *Private drainage.*

129-A. A panchayat may, by notice, require the owner or occupier of any building to construct private drains therefor or alter or remove the private drains thereof." Power to require construction or removal of private drains.

120. In section 131 of the said Act— Amendment of section 131, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'The president of the taluk board in non-union areas and the president of the union board in union areas' the words 'The president of a panchayat' shall be substituted;

(ii) in sub-section (3), for the words 'such building or article,' the words 'such premises or article' shall be substituted; and

(iii) after sub-section (3), the following sub-section shall be added, namely :—

"(4) The powers conferred on the president by sub-sections (1) to (3) may be exercised by the district health officer or any other officer authorized by him."

121. In sub-section (1) of section 132 of the said Act, for the words 'The president of the taluk board in non-union areas, and the president of the union board in union areas' the words 'The president of a panchayat' shall be substituted. Amendment of section 132, Madras Act XIV of 1920.

122. In section 135 of the said Act, for the words 'any local area' the words 'a village' and for the words 'the president of the taluk board in non-union areas and the president of the union board in union areas' the words 'the president of the panchayat' shall be substituted. Amendment of section 135, Madras Act XIV of 1920.

123. In section 136 of the said Act, for the words 'president of a taluk or union board' the words 'president of a panchayat' shall be substituted. Amendment of section 136, Madras Act XIV of 1920.

124. In section 137 of the said Act— Amendment of section 137, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'to the extent' the words 'in respect of such persons and to such extent as may be' shall be substituted; and

(ii) in sub-section (2), for the words 'taluk board and its president in non-union areas, and the union board and its president in union areas' the words 'taluk board and its president' shall be substituted.

125. In section 138 of the said Act, for the words 'president of the local board' the words 'president of the taluk board' shall be substituted. Amendment of section 138, Madras Act XIV of 1920.

126. In sub-section (2) of section 139 of the said Act, for the words 'local board' the words 'taluk board' shall be substituted. Amendment of section 139, Madras Act XIV of 1920.

127. In section 140 of the said Act— Amendment of section 140, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'to the taluk board in non-union areas and to the union board in union areas' the words 'to the panchayat' shall be substituted; and

(ii) in sub-section (2), for the words 'local board' in both the places where they occur, the word 'panchayat' shall be substituted.

Amendment of section 141, Madras Act XIV of 1920.

128. In section 141 of the said Act—

(i) in sub-section (1), for the words 'taluk or union board' the word 'panchayat' shall be substituted ; and

(ii) in sub-sections (2), (3) and (4), for the words 'local board' the word 'panchayat' shall be substituted.

Amendment of section 142, Madras Act XIV of 1920.

129. In section 142 of the said Act, for the words 'taluk board in non-union areas and the union board in union areas' the word 'panchayat' and for the words 'local fund' the words 'village fund' shall be substituted.

Amendment of section 143, Madras Act XIV of 1920.

130. In sub-section (1) of section 143 of the said Act, for the words 'taluk and union board' the word 'panchayat' shall be substituted.

Amendment of section 144, Madras Act XIV of 1920.

131. In the proviso to section 144 of the said Act, for the words 'president of the local board concerned' the words 'president of the panchayat concerned' shall be substituted.

Amendment of section 145, Madras Act XIV of 1920.

132. In section 145 of the said Act, for the words 'by the local board concerned in that behalf' the words 'by the panchayat concerned' shall be substituted.

Amendment of section 146, Madras Act XIV of 1920.

133. In section 146 of the said Act—

(i) in sub-section (1), for the words 'taluk or union board' the word 'panchayat' shall be substituted ; and

(ii) in sub-section (4), for the words 'local board' the word 'panchayat' shall be substituted.

Amendment of section 150, Madras Act XIV of 1920.

134. In sub-section (1) of section 150 of the said Act, for the words 'the president of the taluk board in non-union areas and the president of the union board in union areas may with the approval of the local board concerned' the words 'the president of a panchayat may with the approval of the panchayat' shall be substituted.

Amendment of section 151, Madras Act XIV of 1920.

135. Clause (*c*) of sub-section (1) of section 151 of the said Act shall be omitted.

Repeal of section 152, Madras Act XIV of 1920.

136. Section 152 of the said Act shall be omitted.

Amendment of section 153, Madras Act XIV of 1920.

137. In section 153 of the said Act—

(i) in sub-section (1)—

(*a*) for the words 'union board', the word 'panchayat' shall be substituted ;

(*b*) after the words 'injurious to health or' the words 'dangerous to the public or' shall be inserted ;

(*c*) after the words 'or offensive to the neighbourhood', the words 'or otherwise a source of nuisance' shall be inserted ; and

(*d*) before the words 'within such period' the words 'or to take such other action as may be deemed by the president necessary to remove such nuisance' shall be inserted ; and

(ii) in sub-section (2)—

(a) for the words 'union board' the word 'panchayat' shall be substituted ; and

(b) for the words 'require the owner or occupier of any building to lime-wash or otherwise cleanse the building inside and outside,' the words 'require the owner or occupier of any building or land to cleanse or lime-wash the same' shall be substituted.

138. In sub-section (1) of section 154 of the said Act, for the words 'The taluk board in non-union areas, and the union board in union areas' the words 'A panchayat' shall be substituted. Amendment of section 154, Madras Act XIV of 1920.

139. In sub-section (1) of section 159 of the said Act, the words 'with the approval of the Board' shall be omitted. Amendment of section 159, Madras Act XIV of 1920.

140. In sub-section (4) of section 160 of the said Act, for the words and figures 'no licence under sub-section (1) nor any lease under sub-section (3),' the words 'neither a licence under sub-section (1) nor a lease under sub-section (3)' shall be substituted and, after the words 'is likely to' the words 'be injurious to health or' shall be inserted. Amendment of section 160, Madras Act XIV of 1920.

141. In sub-section (1) of section 161 of the said Act, for the words 'president of the taluk board in non-union areas, or of the president of the union board in union areas' the words 'president of the panchayat' shall be substituted. Amendment of section 161, Madras Act XIV of 1920.

142. After section 163 of the said Act, the following section shall be inserted, namely :— Insertion of new section 163-A in Madras Act XIV of 1920.

"163-A. (1) No person shall plant any tree on any public road or other property vesting in or belonging to a local board except with the previous permission of the president of the local board and on such conditions as the president may impose. Prohibition against planting or felling trees on public roads, etc., without permission.

(2) No person shall fell, remove, destroy, lop, or strip bark or leaves from or otherwise damage any tree vesting in or belonging to a local board and growing on any such public road or property except with the previous permission of the president of the local board and on such conditions as the president may impose."

143. In sub-section (1) of section 164 of the said Act, for the words 'which is not set apart for a public road but is set apart for any other public purpose' the words 'which is set apart for any public purpose' shall be substituted. Amendment of section 164 Madras Act XIV of 1920.

144. For section 166 of the said Act, the following section shall be substituted namely :— Substitution of new section for section 166, Madras Act XIV of 1920.

"166. (1) No person shall use— Licensing of motor vehicles plying for hire and motor lorries.

(a) any motor vehicle for hire or

(b) any motor lorry,

on any public road in a district, except on a licence obtained from the president of the district board.

(2) Notwithstanding anything contained in this Act or in the Madras District Municipalities Act, 1920, the president of a district board may grant a licence for a motor vehicle to be used for hire partly within the limits of the district and partly within the limits of any municipality attached thereto for this purpose by the Local Government by notification in the *Fort St. George Gazette*. When such licence is granted, the district board shall pay to the municipal council concerned such proportion of the fee received for the grant of such licence as the Local Government may, by general or special order, determine.

(3) The district board may, with the previous approval of the Local Government, make regulations determining the rates of fares for passengers and of freight for goods carried in such vehicles and specifying the other conditions on which licences under sub-sections (1) and (2) may be granted.

(4) Every licence granted under sub-section (1) or (2) shall expire at the end of the year in which it is granted.

(5) (*a*) Any person aggrieved by an order passed under sub-section (1) or (2) may appeal against such order to the district board.

(*b*) The period of limitation for such appeal shall be—

(i) where the appeal is against an order refusing a licence,	fifteen days from the date of communication of the order to the applicant; and
(ii) where the appeal is against an order granting a licence,	thirty days from the date of publication of the order on the notice board of the district board.

(6) The Local Government may, either generally or in any particular case, make such order or give such directions as they may deem fit in respect of licences governed by sub-section(2)."

Amendment of sections 168 and 169, Madras Act XIV of 1920.

145. In sections 168 and 169 of the said Act, for the words 'taluk board' wherever they occur, the word 'panchayat' shall be substituted.

Repeal of section 170, Madras Act XIV of 1920.

146. Section 170 of the said Act shall be omitted.

Substitution of new section for section 171, Madras Act XIV of 1920.

147. For section 171 of the said Act, the following section shall be substituted, namely:—

Licence for private market.

"171. (1) No person shall open a new private market or continue to keep open a privat market unless he obtains from the panchayat a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) The panchayat shall, as regards private markets already lawfully established, and may at its discretion as regards new private markets, grant the licence applied for, subject to such regulations as to

supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used and rents and fees to be charged in such market as the panchayat may think proper, or the panchayat may refuse to grant such licence for any new private market. The panchayat may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The panchayat may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the panchayat shall cause a notice of such grant, refusal, suspension, cancellation or modification in the chief vernacular language of the locality to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under this section shall expire at the end of the year.".

148. In section 172 of the said Act— Amendment of section 172, Madras Act XIV of 1920.

(i) in sub-section (1)—

(*a*) before the word and figures 'section 168', the words and figure 'sub-section (2) of' shall be inserted; and

(*b*) for the words 'to the president of the district board' the words 'to the district board through its president' shall be substituted; and

(ii) in sub-sections (2) and (3), for the words 'taluk board' wherever they occur, the word 'panchayat' shall be substituted.

149. In section 174 of the said Act, for the word 'may' the word 'shall' and for the words 'taluk board' the word 'panchayat' shall be substituted. Amendment of section 174, Madras Act XIV of 1920.

150. In sections 176, 177, 178, 179, 180 and 181 of the said Act for the words 'taluk board' wherever they occur, the word 'panchayat' shall be substituted. Amendment of sections 176, 177, 178, 179, 180 and 181, Madras Act XIV of 1920.

151. In section 183 of the said Act— Amendment of section 183, Madras Act XIV of 1920.

(i) for the words 'local board' and the word 'board' the word 'panchayat' shall be substituted; and

(ii) before the word 'articles' the words 'animals or' shall be inserted.

152. After section 183 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 183-A and 183-B in Madras Act XIV of 1920.

"183-A. The powers which a panchayat and its president may exercise under sections 168 to 183 shall, in respect of markets classified as taluk markets under rule 3 of Schedule V, be exercised by the taluk board and its president respectively." Exercise of powers in respect of taluk markets.

Decision of disputes as to whether places are markets.

"183-B. If any question arises whether any place where persons assemble for the sale or purchase of articles of food or clothing, of live-stock or poultry, of cotton, groundnut or other industrial crops or of any other raw or manufactured products, is a market or not, the panchayat or taluk board concerned shall make a reference to the Local Government and the decision of the Local Government on the question shall be final."

Amendment of section 184, Madras Act XIV of 1920.

153. (1) In section 184 of the said Act—

(i) in sub-section (1), for the words 'taluk board' the word 'panchayat' shall be substituted and the words 'rents and' shall be omitted; and

(ii) in sub-section (2), for the words 'in English and a vernacular language of the district' the words 'in the chief vernacular language of the locality' for the words 'taluk board' the word 'panchayat' and for the words 'of every such place where they are leviable' the word 'thereof' shall be substituted.

(2) To the same section, the following explanation shall be added, namely :—

"*Explanation.*—A cart-stand shall, for the purposes of this Act, include a stand for carriages and animals."

Amendment of section 185, Madras Act XIV of 1920.

154. In section 185 of the said Act, for the words 'taluk board' in both the places where they occur, the word 'panchayat' shall be substituted.

Substitution of new section for section 186, Madras Act XIV of 1920.

155. For section 186 of the said Act, the following section shall be substituted, namely :—

Recovery of cart-stand fee, etc.

"186. If the fee leviable under sub-section (1) of section 184 is not paid on demand, it shall be recoverable in the manner provided in section 107 as if it were an unpaid toll."

Substitution of new section for section 187, Madras Act XIV of 1920.

156. For section 187 of the said Act, the following section shall be substituted, namely :—

Licence for private cart-stand.

"187. (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the panchayat a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a cart-stand or before the commencement of the year for which the licence is sought, as the case may be.

(3) The panchayat shall, as regards private cart-stands already lawfully established and may, at its discretion, as regards new private cart-stands, grant the licence applied for, subject to such regulations as to supervision and inspection and to such conditions as to conservancy as the panchayat may think proper; or the panchayat may refuse to grant such licence for any new private cart-stand. The panchayat may, however, at any time for breach of the conditions thereof, suspend, or

cancel any licence which has been granted under this section. The panchayat may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the panchayat shall cause a notice of such grant, refusal, suspension, cancellation or modification in the chief vernacular language of the locality to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) The panchayat may levy on every licence granted under this section a fee not exceeding two hundred rupees per annum.

(6) Every licence granted under this section shall expire at the end of the year."

157. Section 188 of the said Act and the heading thereof shall be omitted. Repeal of section 188, Madras Act XIV of 1920.

158. In section 189 of the said Act— Amendment of section 189, Madras Act XIV of 1920.

(i) in sub-section (1), for the words 'union board' the word 'panchayat' shall be substituted;

(ii) sub-section (2) shall be omitted and sub-section (3) renumbered as sub-section (2); and

(iii) in sub-section (2) as re-numbered, for the words 'local board' the word 'panchayat' shall be substituted.

159. In section 190 of the said Act— Amendment of section 190, Madras Act XIV of 1920.

(i) for the opening paragraph, the following paragraph shall be substituted, namely:—

'The panchayat may, with the sanction of the taluk board, notify';

(ii) in clause (*a*)—

(*a*) for the words 'except with the written permission' the words 'without or otherwise than in conformity with the written permission' shall be substituted;

(*b*) after the word 'cattle' the word 'horse' shall be inserted;

(*c*) for the words 'in any town or village notified by it by name' the words 'in the village or in any specified area therein' and for the words 'local board' the word 'panchayat' shall be substituted; and

(*d*) after the proviso the following proviso shall be inserted, namely:—

'Provided further that no such notification shall have effect until sixty days from the date of publication'; and

(iii) in clause (*b*), after the word 'cattle' the word 'horse' and for the words 'except on a licence' the words 'without or otherwise than in conformity with a licence' shall be substituted.

160. In section 191 of the said Act, for the words 'taluk or union board' the word 'panchayat' and for the words 'within the limits of the board' the words 'within the village' shall be substituted. Amendment of section 191, Madras Act XIV of 1920.

Amendment of section 193, Madras Act XIV of 1920.

161. In section 193 of the said Act—

(i) in sub-section (1),

(*a*) for the words 'taluk board' the word 'panchayat' shall be substituted;

(*b*) for the words 'within its limits' the words 'within the limits of the village' shall be substituted; and

(*c*) for the words 'without the licence of the president of the union board if the place is within union limits, or of the president of the taluk board if it is outside such limits', the words 'without a licence issued by the president of the panchayat' and for the words 'specified therein' the words 'specified in such licence' shall be substituted;

(ii) in sub-section (2), for the words 'local baard' the word 'panchayat' shall be substituted; and

(iii) sub-section (6) shall be omitted.

Amendment of section 194, Madras Act XIV of 1920.

162. In section 194 of the said Act—

(i) in sub-section (1), for the words 'to the taluk board in non-union areas and to the union board in union areas' the words 'to the panchayat' shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The application shall be accompanied by—

(i) a plan of the factory, workshop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by the Local Government, and

(ii) such particulars as to the power, machinery, plant or premises as the panchayat may require by by-laws made in this behalf by the district board";

(iii) in sub-section (3), for the words 'local board' the word 'panchayat' shall be substituted; and

(iv) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Before granting permission under sub-section (3), the panchayat

(*a*) shall obtain the approval of the inspector of factories appointed under the Indian Factories Act, 1911, having jurisdiction in the village or, if there is more than one such inspector, of the inspector designated by the Local Government in this behalf by general or special order, as regards the plan of the factory, workshop, work-place or premises with reference to

(i) the adequacy of the provision for ventilation and light,

(ii) the sufficiency of the height and dimensions of the rooms and doors,

(iii) the suitability of the exits to be used in case of fire, and

(iv) such other matters as may be prescribed by rules made by the Local Government; and

(*b*) shall consult and have due regard to the opinion of the district health officer where the district board employs such an officer and of the district medical officer in other cases, as regards the suitability of the site of the factory, workshop, work-place or premises for the purpose specified in the application."

163. In section 195 of the said Act— *Amendment of section 195, Madras Act XIV of 1920.*

(i) in sub-section (1), for the words 'the taluk board in non-union areas and the union board in union areas' the words 'the panchayat' shall be substituted; and

(ii) in sub-section (2), for the words 'local board' the word 'panchayat' shall be substituted.

164. In section 196 of the said Act— *Amendment of section 196, Madras Act XIV of 1920.*

(i) after the words 'action taken' the words 'or omitted to be taken' shall be inserted; and

(ii) the words 'by a local board' shall be omitted.

165. In sub-section (1) of section 197 of the said Act, for the words 'taluk or union board' the word 'panchayat' and for the word 'under' in clause (*c*) the word 'against' shall be substituted. *Amendment of section 197, Madras Act XIV of 1920.*

166. In section 198 of the said Act— *Amendment of section 198, Madras Act XIV of 1920.*

(i) in clause (*a*), for the words 'the president of the union board in union areas and the president of the taluk board in non-union areas' the words 'the president of the panchayat' shall be substituted; and

(ii) in clauses (*b*) and (*c*), for the words 'local board concerned' the word 'panchayat' shall be substituted.

167. In sub-section (2) of section 199 of the said Act— *Amendment of section 199, Madras Act XIV of 1920.*

(i) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) with reference to all matters not expressly provided for in this Act, which relate to elections of presidents, vice-presidents or members of local boards, including deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed one hundred rupees in the case of candidates standing for election to a district or a taluk board:

Provided further that no deposit shall be required from an Adi-Dravida candidate standing for election to any local board or from any candidate standing for election to a panchayat."

(ii) in clause (*h*), the words "or the Sanitary Board" shall be omitted;

(iii) in clause (*i*), for the words 'the manner in which such accounts shall be audited and published and as to' the words 'the audit and publication of such accounts and' shall be substituted;

(iv) for clause (*n*), the following clause shall be substituted, namely:—

"(*n*) as to the conditions on which and the mode in which contracts may be made by or on behalf of local boards;"

(v) clause (*o*) shall be omitted and clauses (*p*), (*q*) and (*r*) shall be re-lettered as clauses (*o*), (*p*) and (*q*) respectively;

(vi) in clause (*p*) as re-lettered, the word 'and' at the end shall be omitted;

(vii) in clause (*q*) as re-lettered, the words 'to conduct inquiries relating to elections' shall be omitted and before the words 'to compel the production of documents' the word 'and' shall be inserted; and

(viii) after the same clause (*q*), the following clauses shall be added, namely :—

"(*r*) for regulating the sharing between local authorities in the Presidency of Madras of the proceeds of the profession tax, tolls and other taxes or income levied or obtained under this or any other Act; and

(*s*) as to the class of magistrates by whom offences under this Act shall be tried."

Amendment of section 201, and insertion of new section 201-A in Madras Act XIV of 1920.

168. Sub-section (3) of section 201 of the said Act shall be omitted and after that section, the following section shall be inserted, namely :—

Procedure for the making of rules under sub-section (2) of section 74-A and section 201.

"201-A. A draft of the rules proposed to be made under sub-section (2) of section 74-A or under section 201 shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council approves the draft either without modification or addition, or with modifications or additions; but upon such approval being given, the rules may be made in the form in which they have been approved and such rules on being so made shall be notified and shall thereafter be of full force and effect."

Amendment of section 202, Madras Act XIV of 1920.

169. In section 202 of the said Act—

(i) clause (1) shall be renumbered as (1-A) and the following shall be inserted as clause (1), namely :—

"(1) for all matters expressly required or allowed by this Act to be provided for by by-law." ;

(ii) sub-clause (*e*) of clause (10) shall be re-lettered as sub-clause (*f*) and the following shall be inserted as sub-clause (*e*), namely :—

"(*e*) for licensing and controlling brokers, commission agents, weighmen and measurers practising their calling in markets"; and

(iii) sub-clause (*b*) of clause (11) shall be omitted and sub-clause (*a*) renumbered as clause (11).

Insertion of new section 203-A in Madras Act XIV of 1920.

170. After section 203 of the said Act, the following section shall be inserted, namely :—

Power of taluk board or panchayat to make by-laws.

"203-A. (1) Subject to such rules as the Local Government may make in this behalf, a taluk board or panchayat may make by-laws for carrying out any of the purposes for which it is constituted.

(2) Such by-laws shall not be inconsistent with this Act or any other law or with any by-law made by the district board under section 202.

(3) In making a by-law, the taluk board or panchayat may provide that any person who commits a breach thereof shall be liable to pay by way of penalty such sum as may be fixed by the taluk board or panchayat not exceeding fifteen rupees or in case of a continuing breach, not exceeding five rupees for every day during which the breach continues after a penalty has been levied for the first breach."

171. In section 204 of the said Act, after the words 'The district board' the words 'taluk board or panchayat' shall be inserted.

Amendment of section 204, Madras Act XIV of 1920.

172. For section 205 of the said Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 205, Madras Act XIV of 1920.

"205. No by-law or cancellation or alteration of a by-law made by a district board, taluk board or panchayat shall have effect until the same has been approved and confirmed by the Local Government.

Confirmation of by-laws by Local Government.

"205-A. (1) Any by-law or cancellation or alteration of a by-law made by a district or taluk board when it has been duly confirmed shall be published in the district gazette in English.

Procedure for making, and the publication of, by-laws.

(2) Any by-law or cancellation or alteration of a by-law made by a panchayat or made by a district board, and relating to a village, when it has been duly confirmed shall, unless a different method be prescribed under this Act, be written in, or translated into, the chief vernacular language of the locality and deposited at the office of the panchayat, and a copy shall be posted up in a conspicuous position at such office and such other places as the panchayat may direct. And a public proclamation shall be made throughout the village by beat of drum or otherwise that such copy has been so posted up and that the original is open to inspection at the office of the panchayat.

(3) Any by-law or cancellation or alteration of a by-law made by a district board, taluk board, or panchayat shall come into operation three months after it has been so published under sub-section (1) or (2), as the case may be."

173. In section 206 of the said Act—

Amendment of section 206, Madras Act XIV of 1920.

(i) for the words 'local board concerned' the word 'panchayat' shall be inserted; and

(ii) for the words 'to any union or to any specified area under jurisdiction of a local board,' the words 'to the village or to any specified area therein' shall be substituted.

174. For section 208 of the said Act, the following section shall be substituted, namely:—

Substitution of new section for section 208, Madras Act XIV of 1920.

"208. (1) Whoever acts as a member of a local board, knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold such office, shall, on conviction, be punished with fine not exceeding two hundred rupees for every such offence.

Penalty for acting as member, president or vice-president of a local board when disqualified.

(2) Whoever acts as or exercises the functions of the president, temporary president or vice-president of a local board, knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold such office, or to exercise such functions, shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

(3) If the president, temporary president or vice-president of a local board fails to hand over any documents of, or any moneys or other properties vested in or belonging to the local board, which are in or have come into his possession or control to his successor in office or other prescribed authority, in every case as soon as his term of office as such president, temporary president or vice-president expires and in the case of the vice-president also on demand by the president, such president, temporary president or vice-president shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence."

Amendment of section 209, Madras Act XIV of 1920.

175. After the proviso to section 209 of the said Act, the following further proviso shall be added, namely :—

"Provided further that nothing in this section shall apply to a teacher employed by a local board who with the sanction of the Local Government enters into a contract with the local board with regard to the utilization for the purpose of a school of any land or building owned by him or in which he has a share or interest."

Amendment of section 212, Madras Act XIV of 1920.

176. In section 212 of the said Act—

(i) in sub-section (2), after the words 'may be charged' the words 'on such units and' shall be inserted ;

(ii) in sub-section (4), for the words 'Every order of the authority under this Act competent to pass an order' the words 'Every order of the authority competent under this Act or any rule or by-law made thereunder to pass an order' shall be substituted ;

(iii) in sub-section (5), the words "and subject to such appeal as may be provided in case of refusal of a licence or permission" shall be omitted ;

(iv) in sub-section (9), after the words 'licence or permission' occurring at the end, the words 'and may, in his discretion, also recover summarily and pay over to the local board such amount, if any, as he may fix as the costs of the prosecution' shall be added ; and

(v) in sub-section (11), after the words 'The acceptance by' the words 'or on behalf of' shall be inserted.

Amendment of section 213, Madras Act XIV of 1920.

177. In section 213 of the said Act, for the words 'be presented within thirty days after the date of receipt of the order or proceeding against which the appeal is made' the following shall be substituted, namely :—

"be presented—

(*a*) where the appeal is against an order granting a licence or permission, within thirty days after the date of the publication of the order on the notice board of the local board ; and

(*b*) in other cases, within thirty days after the date of the receipt of the order or proceeding against which the appeal is made."

Amendment of section 215, Madras Act XIV of 1920.

178. In section 215 of the said Act—

(i) for the words 'Every notification issued under this Act' the words 'Save as otherwise provided, every notification other than one issued by the Local Government' shall be substituted ; and

(ii) the proviso shall be omitted.

179. After section 215 of the said Act, the following section shall be inserted, namely :— *Insertion of new section 215-A in Madras Act XIV of 1920.*

"215-A. Whenever a local board sets apart any place for any purpose or prohibits the doing of anything in any place, the president shall forthwith cause to be put up a notice in the chief vernacular language of the locality specifying the purpose for which such place has been set apart, or the act prohibited in such place." *Notice of prohibitions or setting apart of places.*

180. In sub-section (3) of section 216 of the said Act for the words 'or form' the words 'form or other document' shall be substituted. *Amendment of section 216, Madras Act XIV of 1920.*

181. For section 221 of the said Act, the following section shall be substituted, namely :— *Substitution of new section for section 221, Madras Act XIV of 1920.*

"221. All costs, damages, compensation, penalties, charges, fees (other than school fees), expenses, rents (not being rents for lands and buildings demised by the local board), contributions and other sums which under this Act or any other law or rules or by-laws made thereunder are due by any person to the local board, may, if there is no special provision in this Act for their recovery, be demanded by bill as provided in the rules in Schedule IV and recovered in the manner provided therein." *Recovery of sums due as taxes.*

182. In section 223 of the said Act, after the words 'Code of Criminal Procedure' the figures '1898' shall be inserted. *Amendment of section 223, Madras Act XIV of 1920.*

183. For section 224 of the said Act, the following section shall be substituted, namely :— *Substitution of new section for section 224, Madras Act XIV of 1920.*

"224. Any fine, costs, tax or other sum imposed or assessed by a magistrate under this Act or under any rule or by-law made under it shall be recoverable by such magistrate under the Code of Criminal Procedure, 1898, as if it were a fine and the same shall, on recovery, be paid to the local board concerned to be applied to the purposes of this Act." *Recovery of fines, costs, etc.*

184. For section 225 of the said Act, the following section shall be substituted, namely :— *Substitution of new section for section 225 Madras Act XIV of 1920.*

"225. (1) No suit or other legal proceeding shall be brought against any local board, or the president or any member, officer or servant thereof or against any person acting under the direction of such board, president, member, officer or servant in respect of any act done or purporting to be done in execution or intended execution of this Act, or any rule, by-law, regulation or order made under it or in respect of *Notice of action against local board.*

any alleged neglect or default in the execution of this Act or any such rule, by-law, regulation or order until the expiration of two months next after notice in writing, stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of residence of the intended plaintiff has been left at the office of the local board and if the proceeding is intended to be brought against any such president, member, officer, servant or person, also delivered to him or left at his place of residence. And unless such notice be proved, the court shall find for the defendant.

(2) Every such proceeding shall, unless it is a proceeding for the recovery of immoveable property or for a declaration of title thereto, be commenced within six months after the date on which the cause of action arose or in case of a continuing injury or damage, during such continuance or within six months after the ceasing thereof.

(3) If any local board or person to whom notice is given under sub-section (1) shall, before the proceeding is commenced, tender amends to the plaintiff, and if the plaintiff does not in any such proceeding recover more than the amount so tendered, he shall not recover any costs incurred by him after such tender. The plaintiff shall also pay all costs incurred by the defendant after such tender.

(4) No suit or other legal proceeding shall be brought against the president or any member, officer or servant of a local board or any person acting under the direction of a local board, or such president, member, officer or servant in respect of any act done in execution or intended execution of this Act, or any rule, by-law, regulation or order made under it or in respect of any alleged neglect or default on his part in the execution of this Act, or any such rule, by-law, regulation or order, if such act was done or if such neglect or default was made in good faith; but any such proceeding shall, so far as it is maintainable in a court, be brought against the local board, except in the case of suits brought under section 227."

Insertion of new section 227-A in Madras Act XIV of 1920.

185. After section 227 of the said Act, the following section shall be inserted, namely :—

Sanction for prosecution of president or member of a local board.

"227-A. When the president or any member of a local board is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the Local Government."

Amendment of section 228, Madras Act XIV of 1920.

186. In sub-section (1) of section 228 of the said Act, before the words 'for defect in form', the word 'merely' shall be inserted.

Amendment of section 230, Madras Act XIV of 1920.

187. In section 230 of the said Act, after the word 'exhibited' the words 'or any sign or mark erected' shall be inserted.

Amendment of section 231, Madras Act XIV of 1920,

188. In sub-section (1) of section 231 of the said Act, for the word 'village' in both the places where it occurs, the words 'revenue village' shall be substituted.

189. In section 233 of the said Act, after the words 'authorize any person to exercise' the words 'in any local area, in regard to any local board or any class of local boards or all local boards in that area' and after the words 'except the power to make rules or alter or cancel Schedules', the words 'the power to determine the contribution payable under section 128 and the power to sanction prosecution under section 227-A' shall be inserted. Amendment of section 233, Madras Act XIV of 1920.

190. For section 234 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 234, Madras Act XIV of 1920.

"234. (1) When a dispute exists between a local board and one, or more than one, other local authority in regard to any matters arising under the provisions of this or any other Act and the Local Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, the Local Government may take cognizance of the dispute, and Adjudication of disputes between local authorities.

(*a*) decide it themselves, or

(*b*) refer it for inquiry and report to an arbitrator or a board of arbitrators or to a joint committee constituted under section 30 for the purpose.

(2) The report referred to in clause (*b*) of sub-section (1) shall be submitted to the Local Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of the Local Government under clause (*a*) of sub-section (1) or under sub-section (2), as the case may be, shall be final and binding on each of the disputing local authorities."

191. For the heading 'Transitional and transitory provisions' of sections 235 to 240 of the said Act the heading 'Miscellaneous' shall be substituted. Repeal of heading of sections 235 to 240, Madras Act XIV of 1920.

192. For section 236 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 236, Madras Act XIV of 1920.

"236. Any sums which, at the commencement of this Act, have been accumulated out of the proceeds of any tax levied under clause (ii) of section 57 of the Madras Local Boards Act, 1884, or out of any investments of such proceeds may, subject to the conditions laid down in sub-section (3) of section 113, be utilized— Utilization of railway cess accumulations.

(*a*) with the previous sanction of the Government of India, for all or any of the purposes specified in sub-section (1) of section 113 or

(*b*) with the previous sanction of the Local Government—

(i) for all or any of the purposes specified in sub-section (2) of section 113 or,

(ii) for capital expenditure on other permanent works of utility provided that the construction of new roads, bridges, causeways and culverts shall have preference over other kinds of works."

Repeal of sections 238 and 239, Madras Act XIV of 1920.

193. Sections 238 and 239 of the said Act shall be omitted.

Substitution of new section for section 240, Madras Act XIV of 1920.

194. For section 240 of the said Act, the following section shall be substituted, namely:—

Special provision in the case of newly constituted and reconstituted local boards.

"240. (1) Notwithstanding anything contained in this Act, when a local board is constituted for the first time, the Local Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the local board and its president.

(2) The special officer shall cause arrangements for election to be made so that the newly elected members may come into office on a day within six months from the date of the constitution of the revenue district or revenue taluk or of the publication of the notification under section 4 or 5, as the case may be.

(3) The special officer shall exercise the powers, discharge the duties and perform the functions of the local board until the board has been constituted and of the president of the board until a president has been elected by the board.

(4) As soon as may be after the constitution of the board, a meeting of the board shall be held on a day and at a time fixed by the special officer for the election of its president. If, at such meeting, no president is elected, a fresh election shall be held on such day and at such time as may be fixed by the special officer.

(5) The term of office of the members or of the members elected in their places at casual vacancies shall expire at the end of three years if the day referred to in sub-section (2) is the first day of November and in other cases at the end of three years from the first day of November immediately preceding such day.

(6) The provisions of sub-sections (1) to (5) shall apply save as otherwise provided in this Act and so far as may be, to all cases of reconstitution of local boards.

(7) When the number of seats on a local board is increased by or in consequence of a notification under section 10, the members elected for the additional seats or the members elected in their places at casual vacancies, shall hold office until the date on which the members elected to the original seats at the ordinary elections immediately preceding, will vacate office.

(8) (*a*) The local Government may pass such orders as they may deem fit as to the disposal of the property vested in a local board which has ceased to exist and as to the disposal of the property vested in a local board and situated in a local area in which such board has ceased to exercise jurisdiction.

(*b*) If any notification declaring any local area to be a taluk or village under section 4 or section 5 is cancelled, the Local Government may pass such orders as they may deem fit as to the disposal of the property vested in the taluk board or panchayat, as the case may be."

195. For rules 1 to 3 of Schedule II (hereinafter referred to as the said Schedule II) the following rules shall be substituted, namely :— Substitution of new rules for rules 1 to 3 of Schedule II, Madras Act XIV of 1920.

"1. Every local board shall provide an office in such place as may be fixed by the Local Government.

2. Every district or taluk board shall meet at least once in two months, and every panchayat at least once in every month for the transaction of business upon such days and at such times as it may arrange and also at other times as often as a meeting shall be called by the president:

3. (1) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least three clear days before the day of the meeting in the case of panchayats and at least ten clear days before the day of the meeting in the case of district and taluk boards.

(2) In cases of urgency, the president may convene a meeting on giving shorter notice than that specified in sub-rule (1).

4. (1) The president of a local board shall, on the requisition in writing of not less than one-third of the members then on the board, convene a meeting of the board, provided that the requisition specifies the day when and the purpose for which the meeting is to be held. The requisition shall be delivered at the office of the local board during office hours to the president, secretary, manager or any other person who may then be in charge of the office—

at least ten clear days before the day of the meeting, in the case of panchayats, and

at least fifteen clear days before the day of the meeting, in the case of district and taluk boards.

(2) If the president fails,[1] within forty-eight hours from the delivery of such requisition, to call a meeting on the day specified therein, or within three days thereafter, the meeting may be called by the members who signed the requisition on giving the notice provided for in sub-rule (1) of rule 3 to the other members of the board.

(3) No meeting under sub-rule (1) or sub-rule (2) shall be convened at any place other than the place where the office of the board is situated."

196. Rule 13 of the said Schedule II shall be omitted and rules 4 to 12 renumbered as 5 to 13 respectively ; and Amendment of rules 4 to 12 and repeal of rule 13 of Schedule II, Madras Act XIV of 1920.

(i) in rule 6 as renumbered, after the words 'shall have' the words 'and exercise' shall be inserted ;

(ii) in rule 9 as renumbered, the words 'the votes of' shall be omitted ;

(iii) in rule 10 as renumbered—

(a) for the words 'each meeting' the words 'every meeting' shall be substituted ; and

(b) for the words 'president or the member who presided at such meeting' the words 'presiding member' shall be substituted ;

(iv) in rule 11 as renumbered,

(a) in sub-rule (1), for the words 'a district or taluk board meeting' the words 'every meeting of a district or taluk board' and for the words 'local fund' the words 'district or taluk fund as the case may be' shall be substituted ; and

(b) for sub-rules (2) and (3), the following sub-rules shall be substituted, namely:—

"(2) A copy of the minutes of the proceedings at every meeting of a panchayat shall, within three days of the date of the meeting, be forwarded to the president of the taluk board.

(3) Any minute of dissent in respect of the proceedings referred to in sub-rule (2) that may have been received within forty-eight hours of the meeting from any member present thereat shall also be forwarded along with the copies of the minutes of the proceedings referred to therein.

(4) A copy of the minutes referred to in sub-rules (2) and (3) shall also be forwarded to the district collector to such extent, within such time and in such manner as may be prescribed"; and

(v) for rule 12 as renumbered, the following rule shall be substituted, namely:—

"12. The president of a local board shall have the custody of the proceedings and records of the board and of the committees thereof and may grant copies of any such proceedings or records on payment of such fees as the district board may, by general or special order, determine. Copies shall be certified by the president, as provided in section 76 of the Indian Evidence Act, 1872, and copies so certified may be used to prove the proceedings and records of the board or committee in the same manner as the proceedings of a municipal body may, under sub-section (5) of section 78 of the said Act, be used to prove the proceedings of that body."

Amendment of Schedule III, Madras Act XIV of 1920.

197. In Schedule III to the said Act—

(i) in the headings, for the word and figures 'section 52' the words, figures and letters 'section 52 (c)' and for the word 'Taluk' the word 'Local' shall be substituted;

(ii) for rule 1, the following rule shall be substituted, namely:—

"1. A person shall be qualified as an elector of a district board, taluk board or panchayat who—

(a) was in the previous year assessed to any tax payable to the Government of India or to the Local Government or to any local authority in the Presidency of Madras; or

(b) is registered as a ryotwari pattadar, or as an inamdar, of land in the district, taluk or village, as the case may be; or

(c) holds land in the district, taluk or village, on a written lease or demise, under a ryotwari pattadar or an inamdar or any tenant under such pattadar or inamdar; or

(d) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land in the district, taluk or village, or

(e) holds an estate in the district, taluk or village as a landholder as defined in the Madras Estates Land Act, 1908; or

(f) holds land in the district, taluk or village as ryot or as tenant under a landholder, as defined in the Madras Estates Land Act, 1908; or

(g) is a retired, pensioned, or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces,"

(iii) rule 2 and the heading thereof shall be omitted ;

(iv) for rule 3, the following rule shall be substituted, namely :—

" 3. If property is held by, or tax is assessed upon, a company or association, or the members of a family jointly, or joint pattadars, the company or association or the family or joint pattadars shall be treated as possessing the qualification, and the person entitled to be registered in the electoral roll shall be the secretary of the company or association or some other person duly authorized in that behalf or the member authorized by a majority of the family or of the joint pattadars, or, in the case of a joint Hindu family, either a member so authorized or, in default of such authorization, the manager thereof ";

(v) in rule 4, after the word 'representative' the words 'of a company or association or' shall be inserted ; and

(vi) in rule 5, for the words 'in his own personal right and not in a fiduciary capacity' the words 'in his personal capacity' shall be substituted.

198. Rule 2 of Schedule IV to the said Act (hereinafter referred to as the said Schedule IV) shall be omitted. Repeal of rule 2 of Schedule IV, Madras Act XIV of 1920.

199. In rule 3 of the said Schedule IV, for the words, 'the district or taluk fund' the words 'local fund concerned' shall be substituted. Amendment of rule 3 of Schedule IV, Madras Act XIV of 1920.

200. In rule 4 of the said Schedule IV, for the words 'as may be prescribed' the words 'as the Local Government may, by general or special order, direct' shall be substituted. Amendment of rule 4 of Schedule IV, Madras Act XIV of 1920.

201. For the heading to rules 5 to 7, the following heading shall be substituted, namely :— Substitution of new heading for the heading to rules 5 to 7 of Schedule IV, Madras Act XIV of 1920.

" Provisions common to other taxes in general. "

202. In rule 5 of the said Schedule IV— Amendment of rule 5 of Schedule IV, Madras Act XIV of 1920.

(i) in sub-rule (1), for the words 'A local board' the words 'The president of a panchayat' shall be substituted and the words 'the companies tax' shall be omitted ;

(ii) in sub-rule (2)—

(*a*) after the words 'assessment books' the words 'and where detailed particulars relating to any assessment are kept in separate records the portion thereof containing such particulars' shall be inserted ; and

(*b*) for the words 'any taxpayer' the words 'any person who pays any tax to the panchayat and such person or agent shall be entitled to take extracts, free of charge, from the said books and records' shall be substituted.

(iii) in sub-rule (3), for the words 'any taxpayer' the words 'any person who pays any tax to the local board or his authorized agent' shall be substituted; and

(iv) for sub-rule (4), the following sub-rule shall be substituted, namely:—

"(4) (a) If at any time it appears to the panchayat that any company or person or any property has been inadequately assessed or inadvertently or improperly omitted from the assessment books relating to any tax, or that there is any clerical or arithmetical error in the said books, it may direct the president to amend the said books in such manner as it deems just or necessary:

Provided that no such direction shall be given, where it involves an increase in the assessment, unless the company or person concerned shall have been afforded a reasonable opportunity to show cause why the assessment books should not be amended as proposed.

(b) Such amendment shall be deemed to have taken effect on the earliest date either in the current half-year or in the two half-years immediately preceding it on which the circumstances justifying the amendment existed."

Substitution of new rule for rule 6, of Schedule IV, Madras Act XIV of 1920.

203. For rule 6 of the said Schedule IV, the following rule shall be substituted, namely:—

"6. The president shall, save as otherwise provided in this Act, determine the tax to which each company, person or property is liable:

Provided that in the case of taxes payable by the president, the assessment shall be made by the panchayat."

Repeal of rule 8 of Schedule IV, Madras Act XIV of 1920.

204. Rule 8 of the said Schedule IV and the heading thereof shall be omitted.

Substitution of new rules for rules 9, 10 and 11 of Schedule IV, Madras Act XIV of 1920.

205. For rules 9, 10 and 11 of the said Schedule IV and the heading thereof, the following heading and rules shall be substituted, namely:—

"Assessment of the profession tax."

"9. (1) The classes into which companies and persons shall, for the purposes of assessment to the profession tax, be divided and the maximum half-yearly tax leviable on each class shall be as follows:—

Class.		Half-yearly income.			Maximum half-yearly tax.	
		Rs		Rs.	Rs.	A.
I	More than	21,000	..	..	275	0
II	"	18,000	but not more than	21,000	225	0
III	"	12,000	"	18,000	150	0
IV	"	9,000	"	12,000	85	0
V	"	6,000	"	9,000	55	0
VI	"	4,200	"	6,000	28	0
VII	"	3,000	"	4,200	20	0
VIII	"	1,800	"	3,000	10	0
IX	"	1,200	"	1,800	6	0
X	"	600	"	1,200	3	0
XI	"	300	"	600	1	8
XII	"	150	"	300	0	8

(2) The district board shall determine the tax leviable on each class subject to the maximum specified in sub-rule (1):

Provided that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(3) The district board may exempt any one or more of the classes in sub-rule (1) from liability to profession tax, but no class shall be exempted from liability when any lower class is liable to tax.

10. A company or person shall be deemed to have transacted business or exercised a profession, art, or calling or held an appointment within a local area if such company or person has an office or place of employment within such local area.

11. (1) Where a company or person transacts business in any half-year exclusively in the area of a single local board, the income of such company or person from the transaction of such business shall, for the purpose of levying profession tax under this Act during the half-year, be deemed to be—

(*a*) where income-tax is assessed on such company or person under the Indian Income-tax Act, 1922, for the year comprising the half-year, one-half of the amount at which the profits and gains of such business are computed under section 10 of the Indian Income-tax Act, 1922, for the purpose of assessing the income-tax; and

(*b*) where the amount of the said profits and gains is not ascertainable, or where such company or person is not assessed to income-tax, such percentage as the Local Government may, subject to the approval of the Legislative Council, prescribe, of the turnover of the business transacted in the area of the local board during the half-year or where this is also unascertainable, during the corresponding half-year of the previous year.

(2) Where a company or person transacts business partly in the area of a local board and partly outside such area, the income of such company or person from the transaction of business in the area of the local board shall, for the purpose of levying profession tax under this Act, be deemed to be the percentage referred to in clause (*b*) of sub-rule (1) of the turnover of the business transacted in such area during the half-year or the corresponding half-year of the previous year, as the case may be.

(3) For the purposes of clause (*b*) of sub-rule (1) and sub-rule (2), the turnover of business in any local area means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such local area.

Explanation.—In determining the turnover of business under this sub-rule—

(*a*) where the delivery of any goods on account of any purchase made by any company or person and the delivery on account of the sale thereof by the same company or person are both effected in the Presidency of Madras, only the latter transaction shall be taken into account;

(*b*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place outside the said Presidency and the delivery on accouut of the sale thereof by the same

company or person is effected in any place in the said Presidency, the latter transaction shall be taken into account; and

(*c*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the said Presidency and the delivery on account of the sale thereof by the same company or person is effected in any place outside the said Presidency, the former transaction shall be taken into account.

11-A. (1) If, in the opinion of the president of the panchayat, profession tax is due from any company or person for any half-year, he shall serve a notice on such company or person either in that half-year or in the succeeding half-year requiring the company or person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form showing the income on the basis of which, according to such company or person, it or he is liable to be assessed, to profession tax for the half-year in question. Thereupon it shall be open to such company or person to submit a return showing the income derived by it or him during the half-year for which profession tax is claimed or for the corresponding half-year of the previous year and produce any evidence on which the company or person may rely in support of the return made.

(2) If a return is made as required under sub-rule (1) and the president is satisfied that it is correct and complete, he shall levy the profession tax from such company or person on the basis of such return.

Explanation.—In cases not falling under clause (*b*) of sub-rule (1) or under sub-rule (2) of rule 11, if the company or person produces the notice of demand of income-tax served on it or him under section 29 of the Indian Income-tax Act, 1922, for the year comprising the half-year in question, the president shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which profession tax is leviable under this Act, as the income on the said sources for the purposes of levying profession tax.

(3) If no return is made as required under sub-rule (1) or if the president is satisfied that any return so made is incorrect or incomplete, the president shall assign to the company or person the class in the scale appropriate to the half yearly income of such company or person as estimated by him.

(4) The president may, when classifying any company or person under sub-rule (3), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid to Government.

(5) The president shall not be entitled to call for the accounts of any company or person."

Amendment of the heading to rules 12 to 25 of Schedule IV, Madras Act XIV of 1920.

20*b*. In the heading to rules 12 to 25 of the said Schedule IV, for the words 'tax on houses' the word 'house-tax' shall be substituted.

207. In rule 12 of the said Schedule IV, for the words 'union board' the word 'panchayat' and for the words 'on any principle other than that of valuation' the words 'on any other principle' shall be substituted. Amendment of rule 12 of Schedule IV, Madras Act XIV of 1920.

208. In rule 13 of the said Schedule IV, after the words 'district board' the words 'or the Local Government' shall be inserted; and for the words 'rates of assessment under section 77', the words 'rates of tax under sections 75 and 77', for the word 'unions' the word 'villages' and for the words 'union board' the word 'panchayat' shall be substituted. Amendment of rule 13 of Schedule IV, Madras Act XIV of 1920.

209. In rule 14 of the said Schedule IV, after the words 'district board' the words 'or the Local Government' shall be inserted; and for the words 'systematically decrease', the word 'decrease' shall be substituted. Amendment of rule 14 of Schedule IV, Madras Act XIV of 1920.

210. For rules 15 and 16 of the said Schedule IV, the following rules shall be substituted, namely:— Substitution of new rules for rules 15 and 16 of Schedule IV, Madras Act XIV of 1920.

"15. When a proportionate rate has been adopted by the district board or the Local Government the panchayat may group the houses in the village in classes to simplify the calculation and collection of the tax. When a progressive rate has been adopted by the district board or the Local Government, it or they shall prescribe principles of classification (as that a certain sum, which shall be tax-free, shall be deducted from the assessment of each house, or that the progression shall be from a certain percentage in the lowest to a certain percentage in the highest class), but shall leave it to the panchayat to settle the precise number and limits of each class. The panchayat shall not in either case so arrange the classes as to affect substantially the principle of taxation, whether proportionate or progressive, adopted by the district board or the Local Government and the number of classes shall in no case be less than six.

"16. The panchayat may by resolution exempt any house in a village from the house-tax—

(i) if the value of the house does not exceed a sum specified in the resolution, such sum not being greater than two hundred and forty rupees if the tax is assessed on capital value or twelve rupees if the tax is assessed on annual value; and

(ii) (*a*) if the owner of the house does not own any other house in the village or

(*b*) if the aggregate capital or annual value of all the houses in the village owned by him does not exceed two hundred and forty rupees or twelve rupees, as the case may be."

211. For rule 18 of the said Schedule IV, the following rule shall be substituted, namely:— Substitution of new rule for rule 18 of Schedule IV, Madras Act XIV of 1920.

"18. (1) In the case of

(i) any Government or railway building or

(ii) any building of a class not ordinarily let, the gross annual rent of which cannot, in the opinion of the president of the panchayat, be estimated,

the capital value of the building shall be deemed to be the total of the estimated value of the land and the estimated present cost of

erecting the building after deducting for depreciation a reasonable amount which shall in no case be less than ten per centum of such cost and its annual value shall be deemed to be six per centum of such total.

(2) Machinery and furniture shall be excluded from valuations under sub-rule (1)."

Amendment of rule 19 of Schedule IV, Madras Act XIV of 1920.

212. In rule 19 of the said Schedule IV—

(i) after the words 'may be levied' the words 'in accordance with these rules' shall be inserted;

(ii) for the words 'for public improvements' the words 'for any public improvement' and for the word 'union' the word 'village' shall be substituted; and

(iii) before the words 'such fund' the word 'each' shall be inserted.

Substitution of new rule for rule 20 of Schedule IV, Madras Act XIV of 1920.

213. For rule 20 of the said Schedule IV the following rule shall be substituted, namely:—

"20. The karnam having jurisdiction over any area comprised in the village shall, on the requisition of the president of the panchayat, prepare and furnish to the president a list of all houses within such area and shall enter in the list the names of owners and occupiers of such houses."

Amendment of rule 21 of Schedule IV, Madras Act XIV of 1920.

214. In rule 21 of the said Schedule IV, for the word 'lists' the word 'list' and for the words 'as the union board may fix' the words 'as the panchayat may, subject to the rules made by the Local Government, fix' shall be substituted.

Amendment of rule 22 of Schedule IV, Madras Act XIV of 1920.

215. In rule 22 of the said Schedule IV—

(i) for the words 'union board' the word 'panchayat,' for the word 'section' the word 'rule' and for the words 'shall be taxed' the words 'is taxed' shall be substituted; and

(ii) after the words 'the class' the words 'if any' shall be inserted.

Amendment of rule 23 of Schedule IV, Madras Act XIV of 1920.

216. In rule 23 of the said Schedule IV, for the words 'union board' the word 'panchayat' and for the words 'in the union' the words 'in the village' shall be substituted.

Substitution of new rule for rule 24 of Schedule IV, Madras Act XIV of 1920.

217. For rule 24 of the said Schedule IV, the following rule shall be substituted, namely:—

"24. (1) The president may amend the tax-books at any time by inserting therein or removing therefrom any property or by altering the classification of, or the amount of tax payable in respect of, any property; and notice of every such amendment shall be given to the person or persons interested therein.

(2) Such amendment shall be deemed to have taken effect on the first day of the half-year in which it is made:

Provided that when the amendment is made in any half-year after the demand notice for that half-year has been issued, it shall have effect only from the succeeding half-year."

218. After rule 24 of the said Schedule IV, the following rule shall be inserted, namely :— Insertion of new rule 24-A in Schedule IV, Madras Act XIV of 1920.

"24-A. Any person may, at any time, not being less than thirty days before the end of a half year, move the president by revision petition to reduce the tax to which he is liable for the forthcoming half-year on the ground that the capital or annual value, as the case may be, of the house in respect of which the tax is imposed has decreased since the assessment of the house was last made or revised."

219. In rule 25 of the said Schedule IV, for the words 'union board' the word 'panchayat', for the word 'year' in both the places where it occurs, the word 'half-year', for the words 'alterations and amendments' in the first place where they occur, the word 'amendments', for the words 'alterations and amendments thereof' the word 'amendments' and for the words and figures 'rules 23 and 24' the word and figures 'rule 23' shall be substituted. Amendment of rule 25 of Schedule IV, Madras Act XIV of 1920.

220. In rule 26 of the said Schedule IV, the word 'Tolls' at the head of the table shall be omitted.

221. For rule 27 of the said Schedule IV, the following rule shall be substituted, namely :— Substitution of new rule for rule 27 of Schedule IV, Madras Act XIV of 1920.

"27 An appeal shall lie to the panchayat in respect of the assessment and imposition of the following taxes and of no others :—

(*a*) the proceedings of the president under rules 11-A, 22, 24 and 25 ; and

(*b*) the order of the president under rule 24-A upon a revision petition."

222. In rule 28 of the said Schedule IV— Amendment of rule 28 of Schedule IV, Madras Act XIV of 1920.

(i) for the words 'local board' in the opening paragraph and in clause (i), the word 'panchayat' shall be substituted ; and

(ii) for clause (ii) the following clause shall be substituted, namely :—

"(ii) unless (except when the president otherwise directs on the ground of poverty) the tax in respect of which the appeal is presented has been paid or deposited at the office of the panchayat within the period specified in clause (i)."

223. In rule 29 of the said Schedule IV, for the words 'local board' the word 'panchayat' shall be substituted. Amendment of rule 29 of Schedule IV, Madras Act XIV of 1920.

224. In rule 30 of the said Schedule IV, for the words 'local board' the word 'panchayat' and for the word 'decreased' the word 'reduced' shall be substituted. Amendment of rule 30 of Schedule IV Madras Act XIV of 1920.

225. (1) In rule 31 of the said Schedule IV, for the words 'the adjudication of an appeal by the local board' the words 'when such an appeal is made, the adjudication of the panchayat thereon' shall be substituted. Amendment of rule 31 of Schedule IV, Madras Act XIV of 1920.

(2) To the same rule, the following proviso shall be added, namely :—

"Provided that where any assessment or demand is not in accordance with the assessment books, nothing in this rule shall be

deemed to prohibit a fresh assessment or demand of the tax being made in accordance therewith."

Substitution of new rule for rule 32 of Schedule IV, Madras Act XIV of 1920.

226. For rule 32 of the said Schedule IV, the following rule shall be substituted, namely :—

"32. (1) Where any tax not being a tax in respect of which a notice has to be served under section 96 is due from any person, the president of the local board shall serve upon such person a bill for the sum due before he proceeds to enforce the provisions of rule 33.

(2) A notice under section 96 and a bill under sub-rule (1) of rule 32 shall be signed by the president or some person authorized by him in that behalf and shall contain—

(*a*) a statement of the period and a description of the occupation, property or thing for which the tax is charged; and

(*b*) a notice of the liability incurred in default of payment.

(3) No tax for any half-year shall be payable by any person unless the notice or bill is served upon such person either within that half-year or in the succeeding half-year:

Provided that where the assessment books have been amended under sub-rule (4) of rule 5, the notice or bill, ae the case may be, may be served either in the half-year in which the amendment was made or in the succeeding half-year."

Amendment of rule 33 of Schedule IV, Madras Act XIV of 1920.

227. In rule 33 of the said Schedule IV—

(i) in sub-rule (1), the words 'or sending' shall be omitted;

(ii) in sub-rule (3), for the word 'amount' the word 'tax' shall be substituted; and

(iii) in sub-rule (4), for the words 'shall be leviable' the words 'shall be levied' shall be substituted.

Amendment of rule 34 of Schedule IV, Madras Act XIV of 1920.

228. In rule 34 of the said Schedule IV—

(i) in sub-rule (1)—

(*a*) for the words 'but, if not', the words 'but if the tax or fee is not paid' shall be substituted; and

(*b*) to clause (*c*), the following proviso shall be added, namely :—

"Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized"; and

(ii) in sub-rule (2), for the words 'proportionate in value to the sum', the words 'equal in value to the tax' shall be substituted.

Amendment of rule 35 of Schedule IV, Madras Act XIV of 1920.

229. In rule 35 of the said Schedule IV—

(i) in sub-rule (1), for the words and figures 'again proceed under rule 32', the words and figures 'again proceed under rule 33' shall be substituted; and

(ii) in sub-rule (3), for the words 'which to his knowledge was not liable', the words 'when to his knowledge, it was not liable' shall be substituted.

Amendment of rule 37 of Schedule IV, Madras Act XIV of 1920.

230. In rule 37 of the said Schedule IV, for the word and figures 'rule 33', the words and figures 'sub-rule (1) of rule 33' shall be substituted.

231. In rule 38 of the said Schedule IV— Amendment of rule 38 of Schedule IV, Madras Act XIV of 1920.

(i) for the words and figures 'remains unpaid at the end of the period mentioned in rule 33' the words and figures 'remains unpaid in whole or in part at the end of the period, specified in sub-rule (1) of rule 33' shall be substituted;

(ii) for the words 'such building or land' the words 'such building' shall be substituted;

(iii) after the words 'within a specified period' the words 'not being less than fifteen days' shall be inserted;

(iv) for the words 'this requisition' the words 'such requisition' shall be substituted; and

(v) for the words 'found on the premises' the words 'found on the building' shall be substituted.

232. In rule 39 of the said Schedule IV— Amendment of rule 39 of Schedule IV, Madras Act XIV of 1920.

(i) in sub-rule (1)—

(a) for the words and figures 'under rule 33' the words and figures 'under sub-rule (2) of rule 33' shall be substituted; and

(b) in clause (b), the words 'and he shall also pay the said amount and the costs of the prosecution' shall be omitted;

(ii) for sub-rule (2), the following sub-rule shall be substituted, namely:—

"(2) Whenever any person is convicted of an offence under sub-rule (1), the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the local board the amounts, if any, due under the heads specified in clauses (a) and (b) of sub-rule (1) and may in his discretion also recover summarily and pay to the local board such amount, if any, as he may fix as the costs of the prosecution."

233. After rule 39 of the said Schedule IV, the following rule shall be inserted, namely:— Insertion of new rule 39-A in Schedule IV, Madras Act XIV of 1920.

"39-A. Neither the president nor any officer or servant of the local board shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules."

234. In rule 40 of the said Schedule IV, for the word 'thereupon' the words 'upon such re-entry' shall be substituted. Amendment or rule 40 of Schedule IV, Madras Act XIV of 1920.

235. For Appendices A, B and C to the said Schedule IV, the following Appendices shall be substituted, namely:— Substitution of new Appendices for Appendices A, B and C of Schedule IV, Madras Act XIV of 1920.

"APPENDIX A.

DISTRAINT WARRANT.

[See rule 33 (4).]

Warrant No.

To

(Name of officer charged with execution of warrant.)

(State tax or taxes due and premises, if any, in respect of which the tax or taxes are due.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rs. A. P. due for the tax or taxes noted above for the ending 19 , although the said sum has been duly demanded from

the said and fifteen days have elapsed since such demand was made: This is to command you to demand the said sum of Rs. A. P. together with annas two for warrant fee, failing payment of which you are to distrain the goods and chattels of the said (or, as the case may be, any goods and chattels found on the premises referred to), to the amount of the said sum of Rs. A. P. together with Rs. A. P. for warrant fee and distraint fee, making together a sum of Rs. A. P. and such further sum as may be sufficient to defray the charges of keeping and selling such distraint; and if, within seven days next after such distraint, the amount due on account of the said tax or taxes and fees shall not be paid, together with such further sum as may be sufficient to defray the charges of keeping such distraint, to sell the said goods and chattels under orders to be hereafter issued by me, and to remit to the office of the board the sale-proceeds of the distrained property, out of which the amount due on account of the said tax or taxes and fees, viz., Rs. A. P. and the charges of keeping and selling such distraint will be deducted and credited to the fund, and the surplus, if any, returned to the owner of the goods and chattels distrained. If distraint or sufficient distraint cannot be found of the goods and chattels of the said , you are to certify the same to me together with this warrant.

STATION } (Signature of the President or other officer.)

Date 19 .

APPENDIX B.

FORM OF INVENTORY AND NOTICE.

[See rule 34 (1) (*c*).]

(State particulars of goods and chattels seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rs. A. P. due for the tax or taxes mentioned in the margin for the ending 19 ; and that unless you pay into the office of the board of the amount due together with the warrant fee, the distraint fee and the cost of keeping the goods and chattels, within seven days from the date of this notice, the goods and chattels will be sold on the day of 19 at the board office or at such other place as the president may direct; and that the goods and chattels may be sold at any previous date; if they are liable to speedy and natural decay.

STATION } (Signature of the officer executing the warrant of distress.)

Date 19 .

APPENDIX C.

TABLE OF MAXIMUM FEES PAYABLE ON DISTRAINTS.

[See rule 36 (1).]

Sum distrained for.	Fees. Rs.	A.	P.
Under 1 rupee	0	4	0
1 rupee and over but under 5 rupees	0	8	0
5 rupees and over but under 10 ,,	1	0	0
10 ,, ,, 15 ,,	1	8	0
15 ,, ,, 20 ,,	2	0	0
20 ,, ,, 25 ,,	2	8	0
25 ,, ,, 30 ,,	3	0	0
30 ,, ,, 35 ,,	3	8	0
35 ,, ,, 40 ,,	4	0	0
40 ,, ,, 45 ,,	4	8	0
45 ,, ,, 50 ,,	5	0	0
50 ,, ,, 60 ,,	6	0	0
60 ,, ,, 80 ,,	7	8	0
80 ,, ,, 100 ,,	9	0	0
100 rupees and over	10	0	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each peon."

236. For rule 1 of Schedule V to the said Act (hereinafter referred to as the said Schedule V) the following rules shall be substituted, namely :— Substitution of new rules for rule 1 of Schedule V Madras Act XIV of 1920

"1. (a) It shall be the duty of every local board to provide for the payment of—

(i) any amounts falling due on any loans contracted by it ; and

(ii) the salaries and allowances of its officers and servants.

(b) It shall also be the duty of every district board to provide for the payment of the pensions, pensionary contributions and provident fund contributions of its officers and servants as well as of the officers and servants of every taluk board and panchayat within its jurisdiction.

1-A. (1) A panchayat shall have power to make such provision as it thinks fit for carrying out the ruquirements of the village in respect of the following matters, namely :—

(a) the construction and maintenance of all public roads within the limits of the village other than portions of district and taluk roads within such limits ; and all bridges, culverts, road dams and causeways on such roads ;

(b) the establishment and maintenance of choultries within the limits of the village other than those classified as district or taluk choultries ;

(c) the lighting of all public roads and public place, within the limits of the village ;

(d) the opening and maintenance of libraries other than libraries serving the needs of an area wider than the village, which are classified as taluk libraries;

(e) the construction of drains and disposal of drainage water and sullage;

(f) the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows ; and other improvements of the sanitary condition of the village ;

(g) the provision of public latrines and arrangements to cleanse latrines whether public or private ;

(h) the opening and maintenance of burial and burning grounds;

(i) the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes and the construction of bathing ghats ;

(j) the opening and maintenance of public slaughter-houses ;

(k) the opening and maintenance of public markets other than markets which are classified as taluk markets ;

(l) the control of fairs and festivals other than fairs and festivals serving the needs of an area wider than the village, which are classified as taluk fairs and festivals ;

(m) the opening and maintenance of centres of physical culture ; and

(n) the opening and maintenance of parks.

(2) Subject to such rules as the Local Government may make, the panchayat shall also have power to make such provision as it thinks fit for carrying out the requirements of the village in respect of the following matters, namely :—

(*a*) the planting and preservation of avenues on all public roads in the village not being district or taluk roads;

(*b*) the opening and maintenance of public landing places, halting places and cart-stands;

(*c*) the control of threshing floors, topes, and other porambokes used by the villagers in common;

(*d*) the control of village buildings and other property belonging to the villagers in common;

(*e*) the extension of village-sites and regulation of building;

(*f*) the registration of births and deaths;

(*g*) the control of pounds;

(*h*) village protection;

(*i*) improvements of agriculture and agricultural stock;

(*j*) the promotion and encouragement of cottage industries;

(*k*) the opening and maintenance of elementary schools;

(*l*) the establishment and maintenance of rural dispensaries;

(*m*) gratuities to its officers and servants; and

(*n*) all other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the village, which are not specifically included in any of the clauses in rules 1-B and 1-C.

1-B. (1) A taluk board shall have power to make such provision as it thinks fit for carrying out the requirements of the taluk in respect of the following matters, namely:—

(*a*) the construction and maintenance of taluk roads and all bridges, culverts, road dams and causeways, on such roads;

(*b*) the establishment and maintenance of choultries in the circle classified as taluk choultries;

(*c*) the opening and maintenance of elementary schools except in villages where the contribution referred to in clause (11) of rule 5-A is paid by the taluk board;

(*d*) the opening and maintenance of libraries which are classified as taluk libraries;

(*e*) the establishment and maintenance of hospitals and dispensaries other than those classified as district hospitals and dispensaries or as rural dispensaries;

(*f*) vaccination except to the extent specified in clauses (*f*) and (*g*) of sub-rule (1) of rule 1-C;

(*g*) the opeing and maintenance of public markets which are classified as taluk markets;

(*h*) the control of fairs and festivals which are classified as taluk fairs and festivals; and

(*i*) the supervision of panchayats in the taluk.

(2) Subject to such rules as the Local Government may make, the taluk board shall also have power to make such provision as it thinks fit for carrying out the requirements of the taluk in respect of the following matters, namely:—

(*a*) the planting and preservation of avenues on taluk roads;

(*b*) gratuities to its officers and servants;

(c) all other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the taluk, which are not specifically included in any of the clauses in rules 1-A and 1-C; and

(d) contributions in aid of purposes similar to those mentioned in sub-rule (1) and clauses (a) to (c) of this sub-rule to other local boards, municipal councils and private persons or associations.

1-C. (1) A district board shall have power to make such provision as it thinks fit for carrying out the requirements of the district in respect of the following matters, namely:—

(a) the construction and maintenance of all district roads and of all bridges, culverts, road dams and causeways on such roads;

(b) the construction and maintenance of all travellers' bungalows and rest-houses on all public roads in the district;

(c) the establishment and maintenance of choultries in the district classified as district choultries;

(d) the opening and maintenance of secondary and sessional schools, vocational or industrial schools and hostels for students;

(e) the district health officer and his office establishment;

(f) all central public health establishments which serve the needs of the district as a whole, including reserve staffs of medical officers, nurses, midwives and vaccinators;

(g) the training of nurses, midwives, dhais and vaccinators;

(h) the establishment and maintenance of hospitals and dispensaries in the district classified as district hospitals and dispensaries; and every kind of medical relief not given by the taluk board;

(i) preventive and remedial measures connected with epidemics;

(j) the establishment and maintenance of veterinary hospitals and dispensaries in the district; and

(k) protected water-supply.

(2) Subject to such rules as the Local Government may make, the district board shall also have power to make such provision as it thinks fit for carrying out the requirements of the district in respect of the following matters, namely:—

(a) the planting and preservation of avenues on all district roads;

(b) the construction and working of railways, tramways, rope-ways, motor omnibus and other transport services;

(c) gratuities to its officers and servants;

(d) all other measures of public utility calculatad to promote the safety, health, comfort or convenience of the inhabitants of the district, which are not specifically included in any of the clauses in rules 1-A and 1-B; and

(e) contributions in aid of purposes similar to those mentioned in sub-rule (1) and clauses (a) to (d) of this sub-rule to other local boards, municipal councils and private persons.

1-D. (1) The Local Government shall have power to make rules regarding the maximum amount of expenditure that may be incurred by a local board—

(a) on ministerial and other establishment; and

(b) on account of the journeys of the president and the vice-president in discharge of the duties of their offices.

(2) Subject to the rules made under sub-rule (1) a local board may incur any charge necessary for or incidental to its administration."

Amendment of rule 2 of Schedule V, Madras Act XIV of 1920.

237. In rule 2 of the said Schedule V, for the words 'district, taluk or union funds' the words 'village, taluk or district funds' and for the words 'district, taluk or union boards' the words 'panchayats, taluk boards or district boards' shall be substituted.

Substitution of new rule for rule 3 of Schedule V, Madras Act XIV of 1920.

238. (1) For rule 3 of the said Schedule V, the following rule shall be substituted, namely:—

"3. (1) The proposals for the classification of roads as district and taluk roads, of choultries as district and taluk choultries, of hospitals and dispensaries as district hospitals and dispensaries and as rural dispensaries shall be framed by a committee on which both the district and taluk boards shall be represented in such proportions and manner as may be prescribed; and they shall be sanctioned by the district board after each taluk board has had a reasonable opportunity of expressing its opinion thereon.

(2) The proposals for the classification of libraries as taluk libraries, of markets as taluk markets and of fairs and festivals as taluk fairs and festivals shall be framed by the taluk board and shall be sanctioned by the district board after each of the panchayats concerned has had a reasonable opportunity of expressing its opinion thereon.

(3) The Local Government shall have power to revise any classification sanctioned by the district board under sub-rule (1) or (2)."

Substitution of new rule for rule 5 of Schedule V, Madras Act XIV of 1920.

239. For rule 5 of the said Schedule V, the following rule shall be substituted, namely:—

"5. The receipts under this Act which shall be credited to village, taluk and district funds respectively are as follows:—

A.—Village Funds.

(1) One-sixth of the land-cess levied in the village under section 78.

(2) The profession-tax levied in the village under section 93.

(3) The house-tax levied in the village under section 98.

(4) The tax or taxes levied in the village under sub-section (2) of section 75.

(5) The pilgrim-tax levied in the village under section 110 except where the occasion for pilgrimage is a festival classified as a taluk festival.

(6) Fees on licences issued and permissions given by the panchayat under this Act.

(7) Fees levied in public markets in the village not classified as taluk markets.

(8) The contribution paid by the taluk board on the scale fixed by the Local Government in respect of markets in the village classified as taluk markets.

(9) Fees for the use of public landing places, halting places, cart-stands and slaughter-houses constructed or maintained from village funds; fees for the use of choultries other than those classified as dis-

trict or taluk choultries, and fees for the temporary occupation of village-sites, roads, burial and burning grounds and other similar public places or parts thereof in the village.

(10) Receipts of schools maintained by the panchayat including grants-in-aid to such schools.

(11) The contribution, if any, paid by the taluk board on the scale fixed by the Local Government for the opening and maintenance of elementary schools in the village.

(12) Income from endowments and trusts under the management of the panchayat.

(13) Contributions from Government, other local boards, municipalities, other local authorities and private persons in aid of any institutions or services maintained or financed from village funds.

(14) Fines levied for nuisances and for offences against the Places of Public Resort Act, 1888, when committed in the village.

(15) Fines and penalties levied under this Act by the panchayat, or at its instance or on its behalf.

(16) Sale-proceeds of sweepings, tools and plant, old stores and materials, and of trees and avenue produce in the village appertaining to roads other than district or taluk roads.

(17) Income from village ferries and fisheries.

(18) Interest on loans and securities.

(19) Interest on arrears of revenue.

(20) Income from, and sale-proceeds of, buildings, lands and other property belonging to the panchayat.

(21) Unclaimed deposits and other forfeitures.

B.—Taluk Funds.

(1) One-third of the land-cess levied in the taluk under section 78.

(2) The pilgrim-tax levied in respect of any village in the taluk where the occasion for pilgrimage is a festival classified as a taluk festival.

(3) Fees on licences issued and permissions given by the taluk board under this Act.

(4) Fees levied in public markets in the taluk classified as taluk markets after deducting the contribution referred to in clause (8) of rule 5-A.

(5) Fees for the use of choultries in the taluk classified as taluk choultries.

(6) Receipts of schools maintained by the taluk board including grants-in-aid to such schools.

(7) Receipts of hospitals and dispensaries, in the taluk other than those classified as district hospitals and dispensaries.

(8) Income from endowments and trusts under the management of the taluk board.

(9) Contributions from Government, other local boards, municipalities, other local authorities and private persons in aid of any institutions or services maintained or financed from taluk funds.

(10) Fines and penalties levied under this Act by the taluk board or at its instance or on its behalf.

(11) Sale-proceeds of sweepings, tools and plant, old stores and materials, and of trees and avenue produce appertaining to all taluk roads.

(12) Receipts from taluk board ferries.

(13) Interest on loans and securities.

(14) Interest on arrears of revenue.

(15) Income from, and sale-proceeds of, buildings, lands and other property belonging to the taluk board.

(16) Unclaimed deposits and other forfeitures.

C.—District Funds.

(1) One-third of the land-cess levied in the district under section 78.

(2) Tolls levied in the district under section 104.

(3) Fees on licences issued and permissions given by the district board under this Act.

(4) Fees for the use of travellers' bungalows and rest-houses in the district.

(5) Fees for the use of choultries in the district classified as district choultries.

(6) Receipts of schools maintained by the district board, including grants-in-aid to such schools.

(7) Receipts of hospitals and dispensaries classified as district hospitals and dispensaries.

(8) Receipts of veterinary hospitals and dispensaries maintained by the district board.

(9) Income from endowments and trusts under the management of the district board.

(10) Contributions from Government, other local boards, municipalities, other local authorities and private persons in aid of any institutions or services maintained or financed from district funds.

(11) Fines and penalties levied under this Act by the district board or at its instance or on its behalf.

(12) Sale-proceeds of sweepings, tools and plant, old stores and materials, and of trees and avenue produce appertaining to all district roads.

(13) Income from district board ferries.

(14) Income from railways, tramways, ropeways, motor omnibus and other transport services maintained by the district board.

(15) Interest on loans and securities.

(16) Interest on arrears of revenue.

(17) Income from, and sale-proceeds of, buildings, lands and other property belonging to the district board.

(18) Contributions towards local fund pensions.

(19) Unclaimed deposits and other forfeitures."

240. In rule 6 of the said Schedule V, for the words "district, taluk and union funds" the words "village, taluk or district funds" and for the words "district, taluk or union boards" the words "panchayats, taluk boards or district boards" shall be substituted. Amendment of rule 6 of Schedule V, Madras Act XIV of 1920.

241. For rules 8 and 9 of the said Schedule V, the following rules shall be substituted, namely:— Substitution of new rules for rules 8 and 9 of Schedule V, Madras Act XIV of 1920.

"8. (1) All moneys received by a district or taluk board shall be lodged in the nearest Government treasury and all moneys received by a panchayat shall be lodged either in the nearest Government treasury or in the nearest Post Office Savings Bank.

(2) (*a*) A district or taluk board may, with the sanction of the Local Government and a panchayat may, with the sanction of the district board,

(i) lodge its moneys in a bank or co-operative society, and

(ii) invest any sums not required for immediate use in any manner which the Local Government may, by general or special order, approve.

(*b*) A panchayat may, with the sanction of the district board and subject to such conditions as to security or otherwise as the district board may lay down, leave its moneys in the custody of the president or any other respectable person.

9. (1) All orders or cheques against a local fund shall be signed—

(*a*) by the president or

(*b*) (i) by some person duly authorized in that behalf by the president in the case of district and taluk boards; or

(ii) by a panchayatdar authorized as aforesaid in the case of panchayats.

(2) The treasury, bank, co-operative society or person in which or with whom the local fund is lodged shall, so far as the funds to the credit of the local board admit, pay all orders or cheques against the fund which are signed as required by sub-rule (1).

(3) If the local board shall have given previous authority in writing, such treasury, bank, co-operative society or person may at once pay out of the fund of the local board without such order or cheque any expense which the Local Government have incurred on behalf of the board."

242. In Schedule VII to the said Act— Amendment of Schedule VII, Madras Act XIV of 1920.

(i) in clause (*g*), the words "or burning lime" shall be omitted;

(ii) for clause (*j*), the following clause shall be substituted, namely:—

"(*j*) burning bricks, tiles, pottery or lime";

(iii) for clause (*n*), the following clauses shall be substituted, namely:—

"(*n*) storing any explosive or combustible material;

(*o*) manufacturing anything from which offensive or unwholesome smells arise;

(*p*) using for any industrial purpose any fuel or machinery; and

(q) in general doing in the course of any industrial process anything which is likely to be offensive or dangerous to human life or health or property'"; and

(iv) the following proviso shall be added at the end, namely :—

" Provided that no licence shall be required for the storage of timber, firewood, thatching materials, hay, grass, straw, fibre or coal or for boiling paddy when such storage or boiling is for private use."

Amendment of Schedule VIII, Madras Act XIV of 1920.

243. In Schedule VIII to the said Act—

(i) after the item relating to section 129, the following item shall be inserted, namely :—

" 129-A Failure to construct, alter or remove drains.	"Fifty rupees."

(ii) after the item relating to section 163, sub-section (2), the following items shall be inserted, namely :—

" 163-A (1) Planting of trees without permission on any public road or other property vested in a local board.	Two hundred rupees."
" 163-A (2) Felling, etc., without permission, of trees growing on public road or other property vested in a local board.	Do."

(iii) in the item relating to section 166, sub-section (1), for the words in the third column, the following words shall be substituted, namely :—

" Using a motor vehicle for hire or a motor lorry, without licence or contrary to licence" ;

(iv) the item relating to section 170 shall be omitted ;

(v) in the item relating to section 171, for the entries in columns (3) and (4), the following entries shall respectively be substituted, namely :—

" Opening a new private market or continuing to keep open a private market without licence or contrary to licence.	Five hundred rupees."

(vi) the item relating to section 186 shall be omitted ; and

(vii) in the item relating to section 187, sub-section (1), for the entries in columns (3) and (4) the following entries shall respectively be substituted, namely :—

" Opening a new private cart-stand or continuing to keep open a private cart-stand without licence or contrary to licence.	Two hundred rupees."

Amendment of Schedule IX, Madras Act XIV of 1920.

244. In Schedule IX to the said Act—

(i) after the item relating to section 129, the following item shall be inserted, namely :—

" 129-A. Failure to construct, alter or remove drains.	Ten rupees."

(ii) in the item relating to section 166, sub-section (1), for the words in the third column, the following words shall be substituted, namely :—

" Using a motor vehicle for hire or a motor lorry, without licence or contrary to licence"; and

(iii) in the item relating to section 187, sub-section (1), in the third column for the words ' without a licence ' the words ' without licence or contrary to licence ' shall be substituted.

245. Schedule X to the said Act shall be omitted. Repeal of Schedule X, Madras Act XIV of 1920.

246. In first giving effect to the provisions of the said Act as amended by this Act, the said provisions shall be read subject to the rules in the Schedule. Madras Act XIV of 1920 as amended by this Act to be read subject to the rules in the Schedule.

THE SCHEDULE.

Transitional Provisions.

1. Every district board constituted under the said Act shall be deemed to be a district board constituted under the said Act as amended by this Act.

2. Every taluk board constituted under the said Act shall be deemed to be a taluk board constituted under the said Act as amended by this Act.

3. (1) Every local area which at the commencement of this Act is a union under the said Act or a village under the Madras Village Panchayat Act, 1920, shall be deemed to be a village under the said Act as amended by this Act.

(2) Every union board constituted under the said Act and every panchayat constituted under the Madras Village Panchayat Act, 1920, shall be deemed to be a panchayat constituted under the said Act as amended by this Act.

4. The number of members constituting the strength of every local board or panchayat existing on the date of the commencement of this Act shall be deemed to be the number of members declared by notification under section 10 of the said Act as amended by this Act:

Provided that where the strength of a union board or panchayat has been fixed at seven, the Local Government shall appoint an eighth member thereto as soon as this Act comes into force.

5. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust by, or for, any district, taluk or union board constituted under the said Act or any panchayat constituted under the Madras Village Panchayat Act, 1920, as well as all liabilities legally subsisting against such board or panchayat shall, on and from the date of the commencement of this Act and subject to such directions as the Local Government may, by general or special order, give in this behalf, pass to the district board, taluk board or panchayat concerned.

(2) All proceedings taken by any such district, taluk or union board under the said Act or by a panchayat under the Madras Village Panchayat Act, 1920, as the case may be, may in so far as they are not inconsistent with the provisions of the said Act as amended by this Act, be continued under the said Act as so amended, by the district board, taluk board or panchayat concerned.

(3) Any remedy by way of application, suit or appeal which is provided by the said Act as amended by this Act shall be available in respect of proceedings under the said Act or under the Madras Village Panchayat Act, 1920, pending on the date of the commencement of this Act, as if the proceedings in respect of which the remedy is sought had been instituted after the commencement of this Act.

(4) If any dispute arises as to the local board to which any property, right, interest or liability is to pass under sub-rule (1), or by which any proceeding is to be continued under sub-rule (2), or to or against which any remedy is to be available under sub-rule (3), the question shall be referred to the Local Government whose decision shall be final.

6. (1) Notwithstanding anything contained in the said Act or in this Act—

(a) (i) the members of every district or taluk board holding office on the date of the commencement of this Act shall be deemed to have been elected members of the district or taluk board constituted under the said Act as amended by this Act and their term of office shall, subject to the provisions of sub-section (2) of section 54 and sections 56, 57 and 59 of the said Act as amended by this Act, extend to or expire on such date as the Local Government may fix and the Local Government shall cause elections to be held so that the newly elected members of the district or taluk board may come into office on the date fixed for the retirement of the old members; and

(ii) the members of every union board or panchayat holding office on the date of the commencement of this Act shall be deemed to have been elected members of the panchayat constituted under the said Act as amended by this Act, and their term of office shall, subject to the provisions of sub-section (2) of section 54 and sections 56,

57 and 59 of the said Act as amended by this Act, extend to, or expire on, such date as the Local Government may fix and the Local Goverment shall cause elections to be held so that the newly elected members of the panchayat may come into office on the date fixed for the retirement of the old members ;

(*b*) the Local Government may, from time to time, postpone any date fixed by them under clause (*a*) and fix another date in lieu thereof ;

(*c*) the president and vice-president of the district board or taluk board and the president of the union board or panchayat holding office on the date of the commencement of this Act shall, subject to the provisions of sub-sections (1) and (2) of section 15, section 43 and section 44 of the said Act as amended by this Act hold office as president or vice-president of the district board, the taluk board or the panchayat, as the case may be, up to, or vacate office on, the date fixed under clause (*a*) or (*b*) ;

(*d*) a meeting of the newly elected members of the district board, taluk board or panchayat shall be held on or as soon as may be after the said date, on a day and at a time fixed by the Local Government or such other authority as may be empowered by them in this behalf, for the election of the president and vice-president of the local board ;

(*e*) the term of office of the newly elected members of the district board, taluk board or panchayat or of the members elected in their places at casual vacancies shall expire at the end of three years, if the date fixed under clause (*a*) or (*b*) is the first day of November and in other cases at the end of three years from the first day of November immediately preceding such date ; and

(*f*) any date fixed under sub-clause (*a*) or (*b*) shall not be later than one year from the date of the commencement of this Act.

(2) (*a*) Any vacancy in the office of president or vice-president of a local board which is in existence on the date of the commencement of this Act or which occurs before the date fixed under clause (*a*) or (*b*) of sub-rule (1) shall be filled by election by the local board.

(*b*) Any such vacancy in the office of an appointed member of a local board shall be filled by appointment by the Local Government and in that of an elected member of a local board by election under the provisions of the said Act or of the Madras Village Panchayat Act, 1920, as the case may be, as amended by sections 47, 48, 50 and 51 of this Act.

(*c*) Any person elected or appointed as president, vice-president or member of a local board under clause (*a*) or (*b*) of this sub-rule shall hold office only up to the date fixed under clause (*a*) or (*b*) of sub-rule (1).

Explanation.—The office of president, vice-president, or member of a local board to which no person had at any time prior to the commencement of this Act been elected or appointed including the office of vice-president of a panchayat created by this Act shall be deemed to be vacant on the date of the commencement of this Act within the meaning of this sub-rule.

7. Any action taken by any authorities before the commencement of this Act for taking which action new authorities are substituted by, or under, the said Act as amended by this Act, shall, unless inconsistent therewith, be deemed to have been taken by such new authorities, unless and until superseded by action taken by them.

8. Subject to the provisions of section 7 of the said Act as amended by this Act the Local Government may, by notification published in the prescribed manner, fix the strength of any district board, taluk board or panchayat constituted under the said Act as amended by this Act at such number as they may think fit, with effect from the date fixed under clause (*a*) or (*b*) of sub-rule (1) of rule 6.

9. The land-cess levied under section 78 of the said Act as amended by this Act for the fasli year in which this Act is brought into force shall be distributed among district boards, taluk boards, panchayats and the committees constituted under section 114-A of the said Act as amended by this Act in such manner as the Local Government may, by general or special order, direct.

10. Any tax which was being levied by any panchayat on the date of the commencement of this Act under clause (*a*) or (*b*) of sub-section (1) of section 26 of the Madras Village Panchayat Act, 1920, shall continue to be levied for the year in which this Act is brought into force and for such further period, if any, as the Local Government may, by general or special order, declare to be necessary and may be recovered in the manner provided for the recovery of taxes in the rules in Schedule IV to the said Act as amended by this Act.

11. (1) Notwithstanding anything contained in rule 3 of Schedule V to the said Act as amended by this Act, the Local Government may, as soon as may be after the

passing of this Act, classify roads, choultries, hospitals and dispensaries, libraries, markets and fairs and festivals in the manner mentioned in the said rule 3 and such classification shall come into effect on the date of the commencement of this Act.

(2) Any classification made under this rule may, after the commencement of this Act, be altered under the said rule 3.

12. If any difficulty arises as to the first constitution or reconstitution of any local board after the commencement of this Act or otherwise in first giving effect to the provisions of this Act or of the said Act as amended by this Act, the Local Government, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE ANDHRA UNIVERSITY (FIRST AMENDMENT) ACT, 1929.

ACT NO. XII OF 1930.

[5th April 1929].

An Act to amend the Andhra University Act, 1925.

WHEREAS it is expedient to amend the Andhra University Act, 1925; it is hereby enacted as follows:— Preamble.

1. This Act may be called "THE ANDHRA UNIVERSITY (FIRST AMENDMENT) ACT, 1929". Short title.

2. In section 6, sub-section (3), of the Andhra University Act, 1925, for the words "in the towns of Vizagapatam, Rajahmundry or Anantapur" the words "in the headquarters of the University" shall be substituted. Amendment of section of Madras Act II of 1926.

THE ANDHRA UNIVERSITY (THIRD AMENDMENT) ACT, 1929.

ACT NO. XIII OF 1930.

[5th April 1929.]

An Act to amend the Andhra University Act, 1925.

WHEREAS it is expedient to amend the Andhra University Act, 1925; it is hereby enacted as follows:— Preamble.

1. This Act may be called "THE ANDHRA UNIVERSITY (THIRD AMENDMENT) ACT, 1929". Short title.

2. In section 6 of the Andhra University Act, 1925 (hereinafter referred to as 'the said Act')— Amendment of section 6 of Madras Act II of 1926.

(i) in sub-section (3), the words 'or as a first-grade college' occurring after the words 'as a University college' shall be omitted.

(ii) sub-section (4) shall be omitted.

3. In section 26 of the said Act— Amendment of section 26 of Madras Act II of 1926.

For clause (*c*) the following shall be substituted, namely:—

"(*c*) has been convicted and sentenced by a criminal court to transportation or to imprisonment for a period of more than one year

for an offence, not being of a political character, unless such sentence has been reversed or the offence has been pardoned or a period of five years has elapsed from the date of the expiration of the sentence."

Amendment of section 31 of Madras Act II of 1926.

4. In section 31 of the said Act, the word 'non-political' shall be substituted for the word 'serious'.

THE MALABAR TENANCY ACT, 1930.

ACT NO. XIV OF 1930.

[18*th November*, 1930.]

Preamble.

WHEREAS it is necessary and expedient to define, declare, alter and amend, to the extent, in the manner, and for the purposes hereinafter appearing, the law relating to landlord and tenant in the district of Malabar;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; it is hereby enacted as follows:—

PRELIMINARY.

Short title.

1. (1) This Act may be called "THE MALABAR TENANCY ACT, 1929."

Local extent.

(2) It extends to the whole of the district of Malabar.

Commencement.

(3) It shall come into force on such date as the Local Government may, by notification in the *Fort St. George Gazette*, appoint:

Provided that in all suits for eviction instituted after the 30th July 1929 and pending in the court of first instance on the date when this Act comes into force, which would have been governed by the provisions of this Act had it been in force at the time of their institution, the rights and obligations of the parties concerned shall be regulated by the provisions of this Act.

Exemptions.

2. Nothing in this Act shall apply to

(1) lands transferred by a landlord for felling timber or for fugitive cultivation or for planting tea, coffee, rubber, cinchona or any other special crop prescribed by a rule made by the Local Government, or the erection of any building for the purpose of or ancillary to, the cultivation of such crop, or the preparation of the same for the market:

Provided that no rule under this clause shall affect any land in respect of which any cultivating verumpattamdar has a right of fixity of tenure under this Act or any customary verumpattamdar, kanamdar or kuzhikanamdar has a right of renewal under this Act, so long as such rights subsist; or

(2) lands on which pepper is the principal crop, or

(3) any building owned by a landlord, including a house, shop or warehouse, and the site thereof, together with the garden or land appurtenant thereto.

CHAPTER I.—DEFINITIONS.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(a) 'Agricultural year' means the year commencing with the 15th March in any calendar year and ending with the 14th March of the following calendar year, or the year between such other dates as the Collector may specify in that behalf, by notification in the District Gazette, for the whole or any part of the district of Malabar; 'Agricultural year.'

(b) 'Court' means the Civil Court having jurisdiction under the Code of Civil Procedure, 1908, to entertain a suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates; 'Court.'

(c) 'Cultivate', with its grammatical variations, means cultivate either solely by one's own labour or with the help of the labour of the members of one's tarwad or family, or of hired labourers or both, or direct or supervise cultivation by such members or hired labourers, jointly or separately, provided that such members or hired labourers have not agreed to pay or take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it; 'Cultivate.'

(d) 'Dry land' means a land which is neither a 'wet land' nor a 'garden land'; 'Dry land.'

(e) 'Eviction' means the recovery of possession of land from a tenant and includes the redemption of a kanam; 'Eviction.'

(f) 'Fair rent' means rent as determined in accordance with the provisions of Chapter II; 'Fair rent.'

(g) 'Garden land' means any land used principally for growing fruit-bearing trees; 'Garden land.'

(h) 'Holding' means a parcel or parcels of land held under a single engagement by a tenant from a landlord and shall include any portion of a holding as above defined, which the landlord and the tenant may agree to treat as a separate holding; 'Holding.'

(i) (1) the word 'improvement' shall have the same meaning as it has in the Improvements Act; 'Improvement.'

(2) 'Improvements Act' means the Malabar Compensation for Tenants' Improvements Act, 1899; 'Improvements Act.'

(j) 'Intermediary' means any person who, not being a janmi, has an interest in land, and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to others; 'Intermediary.'

(k) 'Janmi' means a person entitled to the absolute proprietorship of land and includes a trustee in respect thereof; 'Janmi.'

(l) 'Kanam' means the transfer for consideration in money or in kind or in both by a landlord of an interest in specific immovable property to another (called the 'kanamdar') for the latter's enjoyment, the incidents of which transfer include 'Kanam.'

(1) a right in the transferee to hold the said property liable for the consideration paid by him or due to him which consideration is called 'kanartham',

(2) the liability of the transferor to pay to the transferee interest on the kanartham,

(3) the payment of 'michavaram' by the transferee,

(4) the right of the transferee to enjoy the said property for twelve years or any other period, and

(5) the liability of the transferee to pay a renewal fee to the transferor, if the transferee is permitted to enjoy the said property for a further period after the termination of the original period;

'Kudi-yiruppu.' (*m*) (1) 'Kudiyiruppu' means and includes the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building, and the easements attached thereto;

'Separate kudiyiruppu.' (2) 'Separate kudiyiruppu' means a kudiyiruppu which is the sole property comprised in a holding;

'Separable kudiyiruppu.' (3) 'Separable kudiyiruppu' means a kudiyiruppu which is included with other property in a holding and which is not necessary for the convenient enjoyment, as usual, of any other part of the holding;

'Kuzhi-kanam.' (*n*) 'Kuzhikanam' means and includes a transfer by a landlord to another (called the kuzhikanamdar) of garden lands or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer, for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, the incidents of which transfer include (1) the right of the transferee to enjoy the lands for twelve years or for any other period, and (2) the liability of the transferee to pay a renewal fee to the transferor, if the transferee is permitted to enjoy the said lands for a further period after the termination of the original period;

'Landlord.' (*o*) 'Landlord' means a person under whom a tenant holds and to whom he is liable to pay rent or michavaram, and includes a janmi;

'Melcharth.' (*p*) 'Melcharth' means the transfer by the landlord of part of his interest in any land held by his tenant by which the transferee is entitled to evict such tenant;

'Micha-varam.' (*q*) 'Michavaram' means whatever is agreed by a kanamdar in a kanam deed to be paid periodically, in money or in kind or in both, to or on behalf of the janmi;

'Pay.' (*r*) 'Pay', with its grammatical variations, includes deliver;

'Prescribed.' (*s*) 'Prescribed' means prescribed by rules made under this Act;

'Renewal fee.' (*t*) 'Renewal fee' means fee or fees payable by a tenant to his landlord for the renewal of the legal relationship under which the tenant has been holding any land;

'Rent.' (*u*) 'Rent' means whatever is lawfully payable in money or in kind or in both, to a person entitled to the use or occupation of a land, by another, permitted by the person so entitled, to have the use or occupation of the said land, for any purpose, on the understanding, express or implied, that the person so permitted would pay consideration for such use or occupation;

'Tenant.' (*v*) 'Tenant' means any person who has paid or has agreed to pay rent, or other consideration, for his being allowed by another, to enjoy the land of the latter, and includes an intermediary, a kanamdar a kuzhikanamdar, and a verumpattamdar of any description;

'Verum-pattamdar.' (*w*) (1) 'Verumpattamdar' means a tenant other than a kanamdar or kuzhikanamdar of a holding, for agricultural purposes, which includes wet lands, and may or may not include other lands;

'Cultivating verumpattamdar.' (2) 'Cultivating verumpattamdar' in respect of a holding means any verumpattamdar who, not being a janmi, intermediary or customary verumpattamdar of that holding has, expressly or impliedly, contracted

to cultivate the lands in that holding, either as a tenant-at-will or during a fixed term, and actually cultivates the same';

(3) 'Customary verumpattamdar' means any verumpattamdar who is entitled by custom of the locality in which the land is situate to possession of the said land for a definite period of years and for whose continuance thereon after the termination of that period, for a further period, a renewal fee has to be paid to the landlord as an incident of the tenure'; and 'Customary verumpattamdar.'

(x) 'Wet land' means land which is adapted for the cultivation of paddy. 'Wet land.'

CHAPTER II—FAIR RENTS.

4. In this Chapter— Interpretation clause.

(a) 'seed required' means the quantity of seed customarily deemed to be required, and

(b) 'gross produce' in respect of wet lands means the produce obtained after paying the expenses of reaping.

5. Fair rent in the case of dry lands converted into wet by the tenant's labour shall be— Fair rent of dry lands converted into wet by tenant's labour.

(a) for a period of twenty years from the year in which the first wet crop is raised on the land, one-fifth of the difference between the annual gross paddy produce of the land and three times the seed required for the said land for an agricultural year; and

(b) after the expiration of the said period of twenty years, one-fifth of the difference between the annual gross paddy produce of the land and two and a half times the seed required for the said land for an agricultural year.

6. In the case of wet lands not falling under the previous section, fair rent shall be two-thirds of the difference between one-third of the gross paddy produce of the land for the three years immediately previous to the date on which fair rent is to be ascertained and two and a half times the seed required for the said land for an agricultural year: Fair rent of other wet lands.

Provided that

(i) if, in any particular year, no crop at all is raised, or only a dry crop is raised on a land registered in the registers of the Government as a single-crop land, the produce shall be deemed to be the estimated produce of a single paddy crop; and

(ii) in the case of lands registered as double-crop lands in the said registers, account shall be taken as though two paddy crops have been harvested, irrespective of the number and the kind of the crops raised, and of the fact that no crop whatever is raised in any particular year on such lands.

7. (1) In the case of garden lands, fair rent shall be a share, ascertained under sub-sections (2), (3) and (4) of this section, of one-third of the gross produce for the three years immediately previous to the date on which fair rent is to be ascertained. Fair rent of garden lands.

(2) As regards coconut trees in respect of which the landlord is bound to pay compensation under the Improvements Act in case of eviction, the share shall be one-fifth of the said one-third, of only the nuts included in such produce and, as regards trees in respect of which he is not bound to pay such compensation the share shall be two-fifths of the said one-third:

Provided that where a coconut tree has been let for tapping, its produce of nuts for the purposes of this sub-section during the said three years shall be deemed to be the same as the produce of nuts during the three years of a tree of a similar description and with similar advantages in the neighbourhood which has not been let for tapping;

(3) As regards areca trees and pepper vines where pepper is not the principal crop on the land in respect of which the landlord is bound to pay compensation under the Improvements Act in case of eviction, the share shall be one-sixth of the said one-third of only the nuts and pepper included in such produce, and as regards trees and pepper vines in respect of which he is not bound to pay such compensation, the share shall be one-third of the said one-third;

(4) Nothing shall be payable (*i*) for the minor produce of coconut or areca trees such as leaves, fibre, etc., whether such compensation is payable or not in respect of the said trees, or (*ii*) for the produce of other classes of fruit-bearing trees such as jack, mango, tamarind, palmyra and cashewnut.

Fair rent of dry lands.

8. Fair rent in the case of dry lands shall be three times the assessment payable in respect thereof per annum.

Fair rent of lands within municipal limits.

9. (*a*) In the case of lands situated within the limits of any municipality and not built or planted upon, or on which no crop is grown, the fair rent shall be the rent paid or agreed to be paid in respect of similar lands, of the same extent, in the neighbourhood;

(*b*) In the case of other lands situated within the said limits, the fair rent shall be the fair rent determined under sections 5 to 8, or the fair rent determined under sub-section (*a*) of this section, whichever is higher.

CHAPTER III.—CULTIVATING VERUMPATTAMDARS.

Cultivating verumpattamdar's right to fixity of tenure.

10. Notwithstanding any contract to the contrary entered into whether before or after the coming into force of this Act, every cultivating verumpattamdar shall have fixity of tenure in respect of his holding as hereinafter provided, and shall not be evicted therefrom except as provided in this Act.

Application to court for fixing extent of holding, fair rent, etc.

11. Any cultivating verumpattamdar or his immediate landlord may apply to the court in the form prescribed for fixing the extent of the holding, the fair rent in respect of it, the instalments, if any, in which it shall be payable and the date or dates when the fair rent or the instalments thereof shall be payable.

Procedure on receipt of the application.

12. On the receipt of an application under section 11, the court shall issue notice to all the parties concerned and after enquiry determine by an order—

(*i*) the extent of the holding;

(*ii*) the fair rent that is payable in respect of it;

(*iii*) the instalments, if any, in which the fair rent shall be payable; and

(*iv*) the date or dates on which the said rent or instalments shall be payable.

Landlord's right to advance of one year's fair rent or security for such fair rent.

13. (1) A landlord may, at any time, by notice in writing, call upon his cultivating verumpattamdar, at the latter's option

(*a*) to pay one year's fair rent of the holding in advance, or

(*b*) to furnish security for the said fair rent, or

(c) to pay a portion of the said fair rent in advance and furnish security for the balance.

(2) If, within a period of six months from the date of the service of notice upon him under sub-section (1), the cultivating verumpattamdar fails to pay the advance or furnish the security demanded by the landlord, the landlord may apply to the court, in the form prescribed, for an order to direct the cultivating verumpattamdar at the latter's option—

(a) to pay one year's fair rent of the holding in advance, or

(b) to furnish security for the said fair rent, or

(c) to pay a portion of the said fair rent in advance and furnish security for the balance.

(3) On the receipt of an application under sub-section (2), the court shall issue notice to the cultivating verumpattamdar and, if satisfied after inquiry that the tenant has not complied with any of the provisions of sub-section (2), order the cultivating verumpattamdar, at the latter's option—

(a) to pay one year's fair rent of the holding in advance, or

(b) to furnish security for the said fair rent, or

(c) to pay a portion of the said fair rent in advance and furnish security for the balance,

within such date as the court may fix.

(4) Where the cultivating verumpattamdar has already paid a portion of one year's fair rent of the holding in advance, or furnished security for a portion of the said fair rent, the provisions of sub-sections (1) to (3) shall apply in respect of the balance of such fair rent.

(5) Any advance of fair rent paid by a cultivating verumpattamdar to his landlord, whether before or after a demand under sub-section (1) or deposited by him for such payment under clause (i) of sub-section (4) of section 15, shall bear interest at six per cent. per annum from the date of payment or from the date of service of notice of such deposit through court, as the case may be.

Grounds for eviction of cultivating verumpattamdar.

14. No suit for eviction of a cultivating verumpattamdar from his holding shall lie at the instance of his landlord except on the following grounds :—

(1) that the tenant has wilfully denied the title of the landlord before the date of such suit ;

Explanation.—A denial of the landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause ;

(2) that the tenant has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes ;

(3) that the tenant has not paid, within three months after the due date, the whole or any portion of the rent due in respect of the holding ;

(4) that the tenant has collusively allowed a stranger to encroach on the holding or part thereof adversely to the interests of the landlord ;

(5) that, at the end of an agricultural year, the landlord requires the holding *bona fide* for his own cultivation or for that of any member

of his family or tarwad or tavazhi who has proprietary and beneficial interest therein ;

(6) that, at the end of an agricultural year, the landlord requires the holding or part thereof *bona fide* for building purposes for himself or any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein ;

(7) that the tenant has not complied with the order of the court under sub-section (3) of section 13 :

Provided that in cases falling under clauses (4) and (6) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

Explanation.—In the case of a landlord governed by a law other than the Marumakkattayam law, the wife or husband and the children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.

Tenant's right to sue for restoration of possession of land in certain cases.

15. (1) In any case in which eviction has been obtained on the ground specified in clause (5) of section 14, subject to the provisions of section 43, if the landlord who has obtained such eviction transfers any of the lands to any person on any kind of lease or mortgage with possession or on kanam, kuzhikanam or verumpattam within six years of such eviction, the cultivating verumpattamdar shall be entitled to sue for the restoration to him of the possession of all the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a cultivating verumpattamdar.

(2) In any case in which eviction has been obtained on the ground specified in clause (6) of section 14, the cultivating verumpattamdar shall be entitled to the right of suit conferred by sub-section (1) not only under the circumstances mentioned therein but also if the building for constructing which the eviction was obtained is not erected on the lands within six years of the eviction.

(3) In any suit in which eviction is claimed on the ground specified in clause (3) of section 14, if the tenant deposits in court, for payment to the plaintiff in the suit, (*i*) the amount of rent due with interest thereon at the contract rate, if any, (*ii*) interest on the principal amount of the rent due at twelve per cent. per annum from the date of suit up to the date of deposit, and (*iii*) the costs of the plaintiff up to that date, the court shall dismiss the suit.

(4) In any suit in which eviction is claimed on the ground specified in clause (7) of section 14, if the tenant—

(*i*) (*a*) deposits in court for payment to the plaintiff in the suit one year's fair rent of the holding in advance or furnishes security for the same or deposits in court for such payment a portion of such fair rent and furnishes security for the remainder, or

(*b*) where he has already paid a portion of the said fair rent or furnished security for a portion thereof, deposits in court for payment to the plaintiff the balance of the said fair rent or furnishes security for such balance or deposits in court for such payment a portion of such balance and furnishes security for the remainder ; and

(*ii*) deposits in court for payment to the plaintiff the costs of the latter up to the date of deposit ;

the court shall dismiss the suit.

CHAPTER IV.—RENEWALS.

16. A customary verumpattamdar shall, on the expiry of the verumpattam lease under which he holds, be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same, on payment to him, as renewal fee, of three times the balance of the annual fair rent of the lands covered by the verumpattam lease after deducting both the annual rent payable under the previous lease and the annual Government revenue in cases where the revenue is payable by such customary verumpattamdar.

Customary verumpattamdar's right to claim renewal and the renewal fee to be paid by him.

17. (*a*) A kanamdar shall, on the expiry of the kanam under which he holds, be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same on payment, as renewal fee, of two and one-fourth times the balance of the annual fair rent of the lands covered by the kanam after deducting (1) the annual revenue payable on the kanam property to the Government, if payable by the kanamdar under the kanam deed, (2) the annual interest on the kanartham, and (3) the annual michavaram payable under the previous kanam.

Kanamdar's right to claim renewal and the renewal fee to be paid by him.

(*b*) When neither the rate of interest nor the amount of interest per annum nor the sum total of the annual revenue payable on the kanam property to Government by the kanamdar and the amount of interest per annum, is specified in the kanam deed, interest shall, for the purposes of sub-section (*a*), be calculated—

(1) In North Malabar—at five per cent. per annum, and

(2) In other places—at twelve per cent. per annum when the kanartham does not exceed one thousand rupees; at nine per cent. per annum subject to a minimum of one hundred and twenty rupees per annum when it exceeds one thousand rupees but does not exceed three thousand rupees; and at six per cent. per annum subject to a minimum of two hundred and seventy rupees if it exceeds three thousand rupees:

Provided that, when any usage governing kanam transactions fixes a rate of interest lower than what is provided for in this sub-section, the interest shall be calculated at such rate.

(*c*) Nothing in this section shall apply to a kanam

(*i*) where the kanartham exceeds

in South Malabar, sixty per cent. and

in North Malabar, forty per cent.,

of the value of the janmi's rights in the holding, or

(*ii*) where all the lands covered by the kanam are dry lands.

Explanation I.—For the purpose of sub-sections (*b*) and (*c*), 'North Malabar' means the taluks of Chirakkal, Kottayam, Kurumbranad and Wynaad; and 'South Malabar' means the other taluks in the district of Malabar.

Explanation II.—For the purpose of sub-section (*c*), the janmi's rights in the holding shall be valued at twenty times the excess of the annual fair rent of the holding over the annual revenue payable thereon to Government—

(1) in the case of a kanam existing on the date of the commencement of this Act, on such date and

(2) in the case of a kanam created after the commencement of this Act, on the date of the kanam.

Cultivating kuzhikanamdar's right to claim renewal and the renewal fee to be paid by him.

18. (1) A cultivating kuzhikanamdar shall, on the expiry of the kuzhikanam under which he holds, be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same, on payment, as renewal fee, of the total of one-fourth of the annual gross produce of the fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding, belonging to the cultivating kuzhikanamdar and one-half of the annual gross produce of the other fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding.

Intermediary's right to claim renewal of kuzhikanam and the renewal fee to be paid by him.

(2) Any intermediary of the kuzhikanam shall, on the expiry of the kuzhikanam under which he holds, be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for twelve years, of the same, on payment, as renewal fee, of the total of one-fourth of the annual gross produce of the fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding, belonging to the intermediary and all the tenants below him including the cultivating kuzhikanamdar and one-half of the annual gross produce of the other fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding.

Explanation.—For the purpose of this section, the annual gross produce shall be deemed to be equivalent to a third of the total nuts, fruits and pepper produced during the immediately preceding three years, and where a coconut tree has been let for tapping its produce of nuts for the purposes of this section shall be deemed to be the same as the produce of nuts of a tree of a similar description and with similar advantages in the neighbourhood which has not been so let.

Time within which renewal fee is payable.

19. Subject to the provisions hereinafter contained, the renewal fee fixed under sections 16 to 18 shall be payable as follows :—

(*a*) In case the tenant is not a cultivating kuzhikanamdar, two-thirds of the renewal fee in the year next after the termination of the expiring transaction and one-third in the next following year ,

(*b*) in case he is a cultivating kuzhikanamdar, one-third of the renewal fee in the year next after the termination of the expiring kuzhikanam and the rest in five equal consecutive annual instalments in the years following the said year.

Grounds for eviction of customary verumpattamdar, kuzhikanamdar or kanamdar.

20. No suit for eviction of a customary verumpattamdar, kuzhikanamdar or kanamdar shall lie at the instance of his landlord except on the following grounds :—

(1) that the tenant has wilfully denied the title of the landlord before the date of such suit.

Explanation.—A denial of the landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause;

(2) that the tenant has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes;

(3) that the period of the verumpattam, kuzhikanam or kanam, as the case may be, has expired and no renewal has been obtained;

(4) that the tenant has collusively allowed a stranger to encroach on the holding or part thereof adversely to the interests of the landlord;

(5) that the period of the verumpattam, kanam or kuzhikanam, as the case may be, has expired and there has been no renewal and the

landlord requires the holding *bona fide* for his own cultivation or for that of any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein ;

(6) that the period of the verumpattam, kanam or kuzhikanam, as the case may be, has expired and there has been no renewal and the landlord requires the holding or part thereof *bona fide* for building purposes for himself or any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein :

Provided that in cases falling under clauses (4) and (6) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

Explanation.—In the case of a landlord governed by a law other than the Marumakkattayam law, the wife or husband and the children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.

Tenant's right to sue for restoration of possession of land in certain cases.

21. (1) In any case in which eviction is obtained on the ground specified in clause (5) of section 20, subject to the provisions of section 43 if the landlord who obtains such eviction transfers any of the lands to any person on any kind of lease or mortgage with possession or on kanam, kuzhikanam or verumpattam within six years of such eviction, the tenant shall be entitled to sue for the restoration to him of the possession of all the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a tenant.

(2) In any case in which eviction has been obtained on the ground specified in clause (6) of section 20, the tenant shall be entitled to the right of suit conferred by sub-section (1) not only under the circumstances mentioned therein but also if the building for constructing which the eviction was obtained is not erected on the lands within six years of such eviction.

Tenant's right to apply to court for execution of renewal deed.

22. (1) Notwithstanding any contract to the contrary (whether made before or after the commencement of this Act), a customary verumpattamdar, kanamdar or kuzhikanamdar shall be entitled to apply to the court in the form prescribed for the execution of a renewal deed.

(2) On the receipt of an application under sub-section (1) notice thereof shall be sent to the landlord from whom such renewal is claimed, fixing a date for the trial of the application.

Dismissal of application if landlord desires to evict the tenant on certain grounds.

23. (*a*) On the date fixed under sub-section (2) of section 22 the court shall call upon the said landlord to state in writing whether he desires to evict the tenant on any of the grounds referred to in section 20 except ground (3) and take the holding ; and if the landlord expresses his intention to do so the application shall be dismissed.

(*b*) If the landlord sues to evict the tenant on ground (3) referred to in section 20, the tenant shall be entitled to make an application or a fresh application under sub-section (1) of section 22 and the suit shall abide and follow the result of such application.

Procedure on application under section 22.

24. If the application is not dismissed under sub-section (*a*) of section 23, the court shall,

(1) determine

(*a*) the amount to be paid as renewal fee under sections 16, 17 or 18,

(*b*) the amount of each instalment under section 19, and

(*c*) the date on which each instalment was or will become due; and

Order to deposit renewal fee, etc.

(2) make an order for the deposit, within a time to be fixed in the said order, of

(*a*) the instalment or instalments due on or before the date of the order,

(*b*) interest at 12 per cent. per annum on each such instalment from the date on which it became due or from the date of the commencement of this Act, whichever is later, and

(*c*) all arrears of rent with interest thereon at the contract rate, if any, found due up to the date of the order if the landlord claims that any arrears of rent are due:

Provided that no such interest on a renewal fee or a portion thereof shall be payable if the landlord has refused a valid tender of the renewal fee payable under section 19 or if an application under sub-section (1) of section 22 has been dismissed under section 23 (*a*).

Effect of failure to deposit renewal fee, etc.

25. (1) If the deposit ordered under clause (ii) of section 24 is not made within the time fixed thereunder, the court shall dismiss the application, and such dismissal shall bar any subsequent application under section 22 by the tenant or those claiming under him.

(2) If the said deposit is made within the time fixed, the court shall

Execution of renewal deed by court.

(i) execute a renewal deed containing such terms as it determines to be the terms of the expiring transaction and as are in accordance with law,

(ii) pass, where necessary, an order directing the person entitled to the renewal deed to pay the landlord a further instalment or instalments of the renewal fee in accordance with section 19 with interest at six per cent per annum on each instalment from the due date to the date of payment, and

(iii) make such order as to costs of the proceedings before it as it may deem fit.

Legal effect of renewal deed executed by court.

(3) A renewal deed executed by the court under sub-section (2) shall have the same effect as if it was executed by the landlord himself, and shall entitle the tenant to enjoy the holding for twelve years from the date of the termination of the previous lease, kanam or kuzhikanam.

Effect of renewal on the rights of landlord's landlord.

26. (1) In case there are one or more intermediaries between the janmi and the tenant in actual possession of the holding and a renewal has been granted by an intermediary (hereinafter referred to in this section as the grantor) after this Act comes into force or by the court on his behalf under sub-section (2) of section 25, if the grantor on his own part does not obtain renewal for any reason, the person to whom such renewal has been granted (hereinafter referred to as the grantee) shall be deemed to have contracted with the intermediary or the janmi who is the landlord next above the grantor, for the period of the renewal given to the grantee, on the terms on which the grantee had contracted with the grantor or on the terms on which the grantor had contracted with such next landlord, at such landlord's choice, and there shall be deemed to be privity of contract between the grantee and such landlord subject to the right of the janmi or the landlord to evict the tenant on

the grounds specified in section 20 other than the ground of non-payment of renewal fee.

(2) The intermediary or the janmi who is the landlord next above the grantor shall be entitled to sue the grantor for the proportionate share of any renewal fee which he might have obtained from the grantee for the period between the termination of such grantee's interest in the land and that of the period for which he had given renewal.

Illustration.—*A*, a janmi, grants a kuzhikanam to *B* in 1928. *B* grants a sub-kuzhikanam to *C* in 1932. In 1940 *B* gets a renewal from *A* and in 1944 he grants a renewal to *C*. In 1952 *B* does not take a renewal. *C* shall be deemed to have contracted with *A* on the terms of his own renewal of 1944 or on the terms of *B's* renewal of 1940 at *A's* option, and *A* will not be entitled to evict *C* till 1956.

If, in the above illustration, *B* had taken a renewal fee of Rs. 120 from *C* when granting the renewal in 1944, *B* shall be liable to pay *A* one-third of Rs. 120 for the period between 1952, when his interest ends and 1956 up to which *C* is entitled to stay on the land.

Right of landlord to sue for renewal fee in certain cases.

27. Where in respect of any customary verumpattam, kanam, or kuzhikanam holding for which a renewal deed has been executed under the provisions of this chapter, if (*a*) no application is filed under sub-section (1) of section 22 or (*b*) within six months after the termination of the period for which the said renewal deed endures and of every period of twelve years succeeding such period, the tenant does not secure a renewal on such terms as may be agreed to between him and the landlord, he may be deemed at the option of such landlord to have agreed to a renewal on the terms of the said deed for twelve years from the date of the termination of each of the said periods, and the said landlord shall be entitled to sue the said tenant for the renewal fee specified in sections 16, 17 or 18.

CHAPTER V.—RENTS.

Cultivating verum-pattamdar's liability to pay fair rent.

28. Every cultivating verumpattamdar shall be bound to pay to his immediate landlord, fair rent as fixed under section 12 :

Provided that in the case of a cultivating verumpattamdar's holding existing at the date on which this Act comes into force, the rent payable on such holding shall be deemed to be fair rent for a period of twelve years from such date, unless the rent fixed under section 12 has been taken into account for the purpose of calculating the renewal fee under Chapter IV and there has been a renewal, in which case, such rent shall be payable by the cultivating verumpattamdar from the date of renewal.

Liability for revenue as between landlord and cultivating verum-pattamdar.

29. (1) As between any landlord and a cultivating verumpattamdar, the latter shall be liable for (*a*) the revenue payable to the Government as also the local cesses, on any land on which no rent is payable under this Act; and (*b*) any special charges leviable by the Government for special or additional crops raised on the wet lands.

Liability for municipal tax.

(2) In the case of lands (within the limits of a municipality) in respect of which the landlord has obtained fair rent as ascertained under section 9, he shall bear the tax levied by the municipality for such land to the extent such rent is higher than what is payable therefor under sections 5 to 8 ; but otherwise the landlord and the tenant shall bear such tax in equal shares.

Revision of rent.

30. (1) At any time after the expiry of twenty years from the date of an order fixing the fair rent in respect of a holding or from the date of the last confirmation or revision of such order under this section, the cultivating verumpattamdar or his immediate landlord shall be entitled to apply, in the form prescribed, to the court for the revision of such order so far as the fair rent is concerned.

(2) On the receipt of such an application, the court shall, after notice to the landlord or the cultivating verumpattamdar, as the case may be, determine the fair rent and confirm or revise the order.

(3) If the order is revised, the cultivating verumpattamdar shall be bound to pay rent according to the revised order from the beginning of the agricultural year next after the date of such revision.

Application to court to fix fair rent in case of kuzhikanam.

31. (1) A cultivating kuzhikanamdar shall, when making an application under section 22, or the landlord may, when answering such an application, apply to the court dealing with the application to determine the fair rent payable in respect of the holding to which the application relates, and the court shall make an order determining the same before disposing of the said application, and for the period for which the renewal deed executed on the said application enures, the parties thereto shall be bound to pay and receive rent so determined by the court.

(2) Nothing in this section shall, in respect of the trees which had begun to bear fruits at or before the time of the execution of the deed referred to in clause (i) hereunder,

(i) entitle the landlord to claim or compel the tenant to pay, for a period of twelve years from the commencement of this Act, more than the rent specified in the latest kuzhikanam deed, original or renewed, executed before the commencement of this Act, or

(ii) authorize any claim for an enhancement at the time of each renewal by more than twelve and a half per cent. of such rent.

Invalidity of claim for dues other than fair rent and renewal fee fixed under Act.

32. Notwithstanding any contract to the contrary, express or implied, whether entered into before or after the coming into force of this Act, no cultivating verumpattamdar shall be liable to pay to his landlord anything more or anything else than the fair rent and no tenant who is entitled to claim a renewal under this Act shall for the purpose of obtaining the renewal be liable to pay as renewal fee anything more or anything else than the renewal fee provided by this Act.

CHAPTER VI.—KUDIYIRUPPUS.

Tenant's right to offer to purchase landlord's right in kudiyiruppu.

33. In any suit for eviction relating wholly or in part to a kudiyiruppu, which has been in the continuous occupation of a tenant or the members of his family for ten years on the date of the institution of the said suit, such tenant shall be entitled to offer to purchase the rights in the kudiyiruppu, of the landlord who seeks to evict him, at the market price on the said date.

Procedure to enforce the offer.

34. (1) An offer under section 33 shall be in writing and shall contain the particulars prescribed.

(2) Notice of such offer, with a copy thereof, shall be served on the landlord at the expense of the tenant, fixing a date for the landlord to accept or decline the offer.

Points to be determined by court on the offer.

(3) After such notice has been served on the landlord,

(a) if the landlord unconditionally accepts the offer, the court shall record such acceptance and order the tenant to deposit in court the price specified in his offer together with the arrears, if any, of rent, michavaram, the revenue payable to the Government by the tenant and the local cesses payable by the tenant in respect of such kudiyiruppu and on such deposit the landlord shall be paid the amount deposited; and the suit, in so far as it relates to the eviction from the kudiyiruppu, shall be dismissed; and

(b) if the landlord, for any reason, does not unconditionally accept the offer, the court shall decide whether the kudiyiruppu is a separate or separable kudiyiruppu.

(4) If the decision under clause (b) of sub-section (3) is that the kudiyiruppu is separate or separable, the court shall proceed further and determine the market price of the landlord's rights as it stood on the date fixed for acceptance of the offer by the landlord and shall call upon the tenant to deposit the market price so settled together with the arrears referred to in clause (a) of sub-section (3), if any, on or before a date fixed by it in writing. Order to deposit market price, etc.

(5) Notwithstanding anything contained in sub-section (4), the court, if it is satisfied that the tenant is too poor to pay the market price in a lump sum, may dispense with the deposit of the market price and order that the said price be paid to the landlord, with interest at six per cent. per annum, in as many annual instalments not exceeding twelve as the court may fix having regard to the means of the tenant, on condition that sufficient security is furnished by the tenant, for the regular payment of such instalments. Payment of market price by instalments.

35. If the decision under sub-section (3) of section 34 is that the kudiyiruppu is neither separate nor separable, or if the deposit called for under sub-section (4) of the said section is not made or if the security called for under sub-section (5) of that section is not given on or before the date so fixed, the court shall dispose of the suit for eviction referred to in section 33 as if no such offer had been made. Effect of failure to deposit market price, etc.

36. Upon the tenant making such deposit under sub-section (4) of section 34 or on security being given under sub-section (5) of that section together with the deposit of the arrears referred to in clause (a) of sub-section (3) of that section the suit referred to in section 33 in so far as it relates to the kudiyiruppu, shall be dismissed. Procedure on deposit of market price, etc.

37. The court in which a deposit is made under this chapter may in its discretion at the instance of any person interested in the sum deposited order that such deposit be invested in the manner referred to in section 32 of the Land Acquisition Act, 1894. Investment of money deposited at the instance of persons interested therein.

38. The order or decree under section 36 shall operate as a sale to the tenant of the landlord's rights in the kudiyiruppu subject to the condition that in the event of any sale of the kudiyiruppu, subsequent to the said order or decree by the tenant, his heirs, executors, representatives in interest or assigns, or in execution of a decree against them, or by a receiver in insolvency, the person who, but for the provisions of this section, would be entitled to the landlord's rights in the said property at the time of such subsequent sale, shall be entitled to claim pre-emption. Effect of order or decree under section 36.

CHAPTER VII.—MISCELLANEOUS.

Tenant's rights to be heritable and alienable.

39. Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable.

Tenant's right to avail himself of the provisions of Chapter III or IV in certain cases.

40. (1) Any tenant whose holding has been granted on melcharth may when sued for eviction avail himself of the provisions of Chapter III or Chapter IV.

(2) No holder of a melcharth can when suing for eviction claim possession on grounds (5) and (6) of section 14 or on grounds (5) and (6) of section 20 as the case may be.

Renewal fees and arrears of michavaram and rent to be a first charge on holding after revenue.

41. Renewal fees and arrears of michavaram or rent due to the landlord together with interest, if any, payable on the same shall be a charge on the interest of the person from whom they are due in the holding in respect of which they are due as at the time of the creation of such interest, and such charge shall have priority over all other charges on the same except the charge for the revenue and any dues thereon payable to Government or to a local authority and made a charge thereon by any law for the time being in force.

Right of holder of decree for eviction of kuzhikanamdar to apply for sale of holding.

42. (1) A landlord who has obtained a decree for eviction in respect of a kuzhikanam, shall, in execution of such decree, be entitled to apply for the sale of the holding specified therein and of the improvements in respect of which compensation is awarded under the said decree, and for the payment to him of the balance of the sale price after deducting the amount of the said compensation.

Right of tenant to bid at such sale.

(2) In case such an application is made by a landlord and a sale is held in pursuance of such application, the person to whom the said compensation has to be paid, shall be entitled to bid at the sale and set off the said compensation towards the sale price, and no deposit need be made by him at the sale except in so far as the price offered by him exceeds the said compensation.

Limitation for suits for restoration under sections 15 and 21.

43. (1) (*a*) A suit for restoration under sub-section (1) of section 15 or under sub-section (1) of section 21 shall be instituted within one year from the date of the transfer by the landlord.

(*b*) A suit for restoration under sub-section (2) of section 15 or under sub-section (2) of section 21 shall be instituted within one year from the expiry of the six years after the eviction.

Persons entitled to restoration.

(2) If there are intermediaries between the landlord who has obtained the eviction and the person who cultivates the land, all persons whose interests in the holding are terminated by the eviction, shall be entitled to be restored to the respective interests they had at the time of the eviction as if there had been no eviction, and in case any one of them does not claim restoration the tenant next below him shall be entitled to claim such restoration and hold the land,

(*a*) on the terms on which the person not claiming the land held it, if he and the claimant belonged to the same class, or

(*b*) on the terms on which the claimant held it if he and the person who did not claim the land belonged to different classes;

provided always that, if the landlord obtaining eviction had paid any value for improvements to any one whose interests were so terminated, the person claiming restoration shall, before such restoration is effected, be bound to return to the landlord the value so paid in respect

of the improvements existing at the time of the restoration together with the kanartham, if any, and also the value of the improvements, if any, effected *bona fide* by the landlord between the date of eviction and the date of suit.

Explanation.—For the purpose of this section, a kanamdar, an intermediary in respect of a kuzhikanam, a cultivating kuzhikanamdar, a verumpattamdar and a customary verumpattamdar belong each to a different class. A cultivating kanamdar, a non-cultivating kanamdar and a kanamdar under a kanamdar belong to the same class; and a cultivating verumpattamdar and a non-cultivating verumpattamdar belong to the same class.

Illustration.—If *A* is the janmi, *B* and *C* are kanamdar and sub-kanamdar and *D*, verumpattamdar cultivating the land, if *A* the janmi exercises his power to take the land for his own use and then inducts some other tenant into it within six years, *B* shall be entitled to claim as against *A* to be restored to his previous rights. But on *B* getting such restoration, *C* shall be entitled to claim as against *B* to step in as sub-kanamdar, and *D* shall be entitled to claim the verumpattamdar's rights as against *C*. If, however, *B* does not want to claim restoration, *C* shall be entitled to claim as against *A* to be put in the position of *B* the kanamdar, and *D* shall be entitled to claim as against *C* to be treated as his cultivating verumpattamdar. If both *B* and *C* do not claim restoration, *D* shall be entitled to claim as against *A* to be a verumpattamdar on the terms on which he held the land under *C*.

Surrender of holdings.

44. A kanamdar or kuzhikanamdar or customary verumpattamdar who has obtained a renewal or a cultivating verumpattamdar may, at the end of any agricultural year, surrender his holding to his immediate landlord, by a registered document.

Such a landlord shall not be bound to accept the surrender unless notice has been given in writing to him by the tenant of his intention to do so three months prior to the date of the expiry of the agricultural year, and unless it be in respect of the entire holding, and the whole of the arrears of the michavaram or rent is also tendered at the time of the surrender. Nor shall the landlord be bound to refund the kanartham or to pay the value of the improvements which he would have been otherwise bound to pay under the Improvements Act.

Applicability of Act to redeemed kanamdara, etc.

45. If (1) a cultivating kanamdar who consents to be redeemed or (2) a cultivating customary verumpattamdar who gives up his rights as such, desires to continue on the holding as a cultivating verumpattamdar, the provisions of this Act shall apply to him as if he were a cultivating verumpattamdar.

Contents of lease, kanam or kuzhikanam deeds.

46. Every deed by which a lease, kanam or kuzhikanam is created or renewed and its counterpart shall contain

(*a*) the name, if any, and description and extent of the holding;

(*b*) the Government revenue and local cesses, if any, payable in respect of the holding;

(*c*) the amount of rent or michavaram payable in respect of the holding;

(*d*) the relation that any *para* or other measure according to which the rent or michavaram has to be paid, bears to the capacity of the Macleod seer;

(*e*) if it is a kanam deed,

(i) the kanartham ;

(ii) the rate or the amount of interest payable in respect of the said kanartham ; and

(*f*) the renewal fee, if any, levied, and in case no such fee was levied, a statement to that effect.

Tenant's right to obtain receipts and forms of such receipts.

47. (1) Every tenant paying any rent or michavaram shall be entitled to receive and the landlord shall be bound to grant a receipt specifying

(*a*) a description of the holding in respect of which it was paid ;

(*b*) the date of payment ;

(*c*) the amount paid ;

(*d*) the period to which the amount paid relates ; and

(*e*) the arrears, if any, remaining due from the tenant after the said payment.

A reference to the date and registration number of the document under which the holding is held and also the name of the sub-registration district in which the said holding is situate, shall be deemed to be a sufficient description of the holding for the purpose of this sub-section.

(2) In the absence of the particulars specified in clause (*e*) of sub-section (1), the burden of proving that the tenant is bound to pay any arrears of rent or michavaram which had accrued previous to the date of the receipt, shall be on the person claiming such arrears.

(3) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,

(i) the money, if the rent or michavaram is payable in money; and

(ii) the money value of the rent or michavaram, if it is payable in kind.

Stamp and registration fees to be paid by the tenant.

48. The stamp and registration charges for any lease or kanam or kuzhikanam deed and for the counterpart of such lease, kanam or kuzhikanam shall be borne by the tenant.

Improvements Act to apply to evictions under Act.

49. The provisions of the Improvements Act shall apply in all cases of eviction to which this Act applies.

Code of Civil Procedure 1908 to apply to proceedings under Act.

50. (1) The procedure provided as regards suits in the Code of Civil Procedure, 1908, including Orders XXXVIII, XXXIX and XL of the first schedule, shall be followed as far as it can be made applicable in all proceedings relating to applications under this Act.

Appeals.

(2) Appeals shall lie from orders made under sections 12, 23, 25, 30, 31, 34, 35 and 36, as if they were decrees in suits.

Collector to publish list of prices.

51. (1) The Collector of the district shall in the month of April of every year publish in the *Malabar District Gazette* the average market price of paddy, coconut, arecanut and pepper, at each taluk headquarters, for the twelve complete months preceding the date of publication.

(2) Where any rent, michavaram or renewal fee payable under this Act is paid or is to be paid in money, in whole or in part, paddy, coconuts, arecanuts and pepper, shall be valued, for the purpose of determining the sum due, at the average market price of the previous five years as published under sub-section (1).

Place of delivery of rent payable in kind.

52. Where the rent is payable in kind, it shall, in the absence of a contract to the contrary, be delivered at the landlord's granary in the village in which the holding is situated ; or at such other granary within three miles of the village as may be provided in that behalf by the landlord.

Savings.

53. Nothing in this Act shall affect the right of a janmi in any of his holdings—

(1) to make irrigation channels, foot-paths, roads and ways into adjacent and other holdings,

(2) to work laterite and other quarries, and

(3) to cut and remove the trees or enjoy the usufruct of trees and pepper vines belonging to him.

Provided that the tenant shall be entitled to a proportionate reduction of michavaram or rent if by the exercise of such right his profits are decreased.

Power to make rules.

54. (1) The Local Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, they may make rules regulating all or any of the following matters :—

(*a*) The investing of courts of original jurisdiction with powers to try summarily suits for the recovery of rent or michavaram and the procedure to be followed in such suits ;

(*b*) the period of limitation for applications under this Act for which no period is specifically fixed therein.

(3) All rules made under this section shall be placed on the table of the Legislative Council while it is in session for a period of not less than three months before they come into force.

PRINTED AT THE MADRAS LAW JOURNAL PRESS, MYLAPORE.